



# India's Parliament

## Volume XI

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Session of the Second Legislative Assembly  
and the Sixth Session of the Council of  
State, 1925.*



*Prepared by the*  
DIRECTOR, CENTRAL BUREAU OF INFORMATION  
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## INTRODUCTION.

The Legislative session at Simla began on the 20th August 1925 when the Council of State and the Legislative Assembly met in the Assembly Chamber. The attendance was as good

Foreword. as in any previous session. Owing to the forthcoming election of the President of the Legislative Assembly members had made a special point of coming up at the very commencement of the session. The programme of business which promised to be both heavy and interesting, must no doubt have afforded additional inducement to the members. The Council of State maintained its traditions, and it was in the fitness of things that on the termination of the life of the first Council, which had hitherto been characterised by goodwill and harmony between officials and non-officials who had tried to co-operate with each other to the best of their power, His Excellency the Viceroy should have come down personally to bid them farewell and to pay tribute to their work.

His Excellency the Viceroy delivered his inaugural address on the 20th August. His Excellency referred to his absence in England and expressed his special pleasure at meeting the Members of the Indian Legislature. He expressed his regret at the death of Mr. Montagu, Lord Curzon, Mr. C. R. Das, Sir Surendranath Banerjea, and the Maharaja Scindia of Gwalior. His Excellency also referred to the death of Khan Bahadur Shams-uz-Zoha and Sir Leslie Miller, and to the loss which the country and the empire had suffered in the sudden and tragic death of the late Commander-in-Chief, Lord Rawlinson. His Excellency extended a cordial welcome to Sir William Birdwood, the new Commander-in-Chief, who was the first holder of this office who at the same time had the exalted military rank of Field-Marshal. He expressed his Government's appreciation of the services which had been rendered not only to the Assembly but also to the Provincial Legislative Councils by the first President of the Legislative Assembly, Sir Frederick Whyte. "I am able to say," said His Excellency, "with confidence that Sir Frederick Whyte has discharged to the utmost the very heavy responsibilities laid upon him as first President of the Legislative Assembly, and I welcome this opportunity of tendering to him my thanks and the thanks of my Government for his very notable achievement."

Reviewing the affairs of India, His Excellency referred to the position of Indians in South Africa, and stated that his Government was watching the situation closely and was still in communication with the Government of South Africa. Dealing with internal affairs, His Excellency referred to the industrial depression, which, fortunately, had not been associated with any failure of Indian harvests. The depression appeared to be a phase of a world-wide movement which



India could not expect to escape. Indeed it was fortunate that the change did not come to her so quickly or so severely as it had in many other countries, and owing to a succession of good harvests there had been a reserve of buying power in the country. "Nevertheless the process of adjustment is difficult and the condition of several of these industries will come before you. Public attention has recently been directed to the great cotton mill industry which after a period of unexampled prosperity and expansion is now experiencing a reaction. My Government has been watching the position closely, and I have consented to receive a deputation early next week from the millowners of Bombay and Ahmedabad. In the circumstances I will reserve any further observations." His Excellency referred to the four reports recently published by the Tariff Board, to their report dealing with steel, to the recommendations of the Coal Committee designed to rehabilitate Indian coal in overseas markets, and to the action which was contemplated. While giving due attention to industries, His Excellency said that his Government was determined, so far as circumstances would permit, not to neglect the interests of what was really the greatest of Indian industries, namely, agriculture. He knew from his discussions with the Secretary of State that his Government could rely upon his most cordial support of this policy. The direct responsibility of the Government of India for agricultural development in the provinces had ceased but in view of its paramount importance as the basic industry of the people of India, of the improbability of Provincial Governments being in a position to undertake research on the scale required, and of the necessity for co-ordinating activities in the wide field of agricultural development, the Central Government, His Excellency thought, must continue to play an important part in agricultural progress. "With the improvement this year in our finances we have been able to increase very considerably our activities in the sphere of agriculture. The Agricultural Institute at Pusa is expanding its work of research, which is the basis and condition of all progress. New varieties of crops have added within the past few years, crores of rupees to the wealth of the agriculturist, and these achievements point the way to still more wonderful possibilities." In order to facilitate the co-ordination of provincial effort, the Government of India had "under consideration a proposal for the establishment of an all-India agricultural organisation which would help towards co-ordinating the activities of the various Provincial Departments of Agriculture, promote research, agricultural education, co-operation and other established aids to agriculture and serve as a medium for agricultural propaganda throughout the country." With the object of obtaining the views of representative and responsible authorities, a definite scheme had been formulated and it had been decided to refer this proposal to the Board of Agriculture at its next meeting at Pusa in December. His Excellency hoped that in addition to the regular Provincial representatives, Ministers of Agriculture of the various provinces would also be able to attend on this important occasion. Turning to the action taken on the report of the Civil Justice Committee, His Excellency remarked that many of the recommendations could be put into effect by Local Governments, the High Courts and the presiding officers of the Courts of Justice. In some cases Government had decided to reduce the proposals of the Committee to the concrete form of Bills which would

come up during the session. In others they had addressed Local Governments and High Courts and would prepare Bills after they had received their opinions. His Excellency expressed his high appreciation of the work which had been performed by the Chairman and the Members of the Committee and by the co-opted members, non-official as well as official.

His Excellency next referred to the Report of the Economic Inquiry Committee on the material which existed for holding an inquiry into the economic conditions of the people of India, the feasibility of instituting an inquiry of this character, and the manner in which it could be carried out. The report had just been completed, and Government intended to publish it at an early date and to examine the recommendations without delay. His Excellency expressed his appreciation of the expedition with which the Committee had dealt with this complicated subject.

With the return of sterling to a parity with gold, one of the most important conditions requisite for a fruitful re-examination of the problems of currency and exchange had been fulfilled, and His Excellency announced that His Majesty the King had approved the appointment of a Royal Commission on Indian Currency "to examine and report on the Indian exchange and currency system and practice, to consider whether any modifications are desirable in the interests of India, and to make recommendations." The Right Honourable Hilton Young would act as Chairman, and Professor J. C. Coyajee, Sir Maneckji Dadabhoy, Sir Reginald Mant, Sir Rajendra Nath Mukherji, Sir Alexander Murray, Mr. W. L. Preston, Sir Henry Strakosch, Sir Purshotamdas Thakurdas, and Sir Norcot Warren would be the members, with Mr. A. V. V. Aiyar of the Indian Finance Department and Mr. Baxter of the India Office as Joint Secretaries. His Excellency next referred to the Committee, known as the Indian Sandhurst Committee, which had been appointed to investigate "not only the whole subject of the best and most suitable means of training Indians to hold worthily and efficiently His Majesty's Commission but also the question of what measures should be adopted in order to attract the best type of Indian youth, in greater numbers than are at present forthcoming, to a military career." His Excellency attached great importance to the enterprise upon which the Committee was embarking, and if they proved successful, they would, to the extent of their achievement, help India forward in the path of progress. "The Committee is widely representative of different branches of Indian opinion, and I am glad to note that in this important inquiry we shall have the assistance of the leader of the Swaraj Party. I must express gratification that he is prepared to contribute to the elucidation of the problems involved, but I should not think of seeking to press the implication of his action further than he himself wished." The establishment of a Public Service Commission was being actively pursued in correspondence with the Secretary of State, and His Excellency hoped that it would shortly be possible to make an announcement outlining its functions, its constitution and its personnel. "I believe," said His Excellency, "that it will confirm for the Services that sense of security on the conscientious discharge of their duties to which they are justly entitled, and that it will provide an independent and impartial tribunal

## INTRODUCTION

for the examination of grievances I believe also that it will be visible and concrete guarantee of the principle, on which all good Government is founded, that the service of the public " On the situation relating to the religious endowments of the Sikh community and the various issues connected with it, His Excellency expressed his great gratification at finding that the hope of improvement in that situation had been realized or was on a fair way to be realized " During the whole course of the events and controversies which have engaged public attention, and sometimes, I regret to say, disturbed, the public peace in the Punjab, the Government of the Punjab and my own Government have been animated by a constant and single desire to promote by every means in our power a stable, an equitable and a friendly settlement of all the matters in issue, which shall do justice to the claims of all the interests legitimately concerned and which, in particular, shall restore the traditional relations of good understanding and mutual confidence between Government and the Sikh community It is my belief that those relations, glorious in war and 'no less renowned' in peace, whatever misunderstandings have arisen and whatever unfortunate incidents have occurred, have never in truth suffered more than a partial and temporary disturbance, and I welcome every prospect of their complete renewal and consolidation A measure regulating the management of Sikh religious endowments had been enacted by the Punjab Legislative Council and had received such large and overwhelming support from the interests directly or indirectly concerned as to leave no doubt regarding its general acceptance The Government of the Punjab had made a generous offer to those who were under detention in the province for certain offences arising out of the agitation, and His Excellency trusted that wise counsels would prevail in regard to it "I count," said His Excellency, "as one of the palpable signs of a hopeful and auspicious future, the recent conclusion, with the co-operation and assistance in the necessary arrangements of the authorities of the Nabha State of the ceremonial reading of the Sikh scriptures at the Gangsar Gurdwara in that State The policy scrupulously observed by Government has been to interpose no obstacle, there or elsewhere, to the free observance of religious rights and liberties I will say no more on a subject which might revive old controversies than that I have every hope and confidence that, with the conclusion of the ceremony I have referred to and the release of persons detained in the Nabha State, we may all now unite to treat this incident as a closed chapter " A bill validating such of the provisions of the Punjab Act as were beyond the competence of the local legislature would be introduced during the present legislative session, and His Excellency expressed his confidence that a measure which offered so fair a prospect of a practical and equitable settlement of a momentous and complex issue and had been supported by so weighty a body of public opinion would receive also the ratification and endorsement of the Central Legislature "I trust that your deliberations will complete a legislative act which will not only afford a just and satisfactory solution of the matters it expressly contemplates, but will also contribute powerfully to the re-union and reconciliation of diverse aims in other spheres of interests which we all have equally at heart If we persevere and re-

double our efforts in the path of mutual forbearance and understanding, I have every confidence that the future will crown our labours "

His Excellency referred to the many conferences and discussions he had had with the Secretary of State during his stay in England and also to the great advantage of representing the situation in India, as His Excellency conceived it, to the Prime Minister and the Cabinet. Towards the end of His Excellency's visit the Secretary of State had made an important pronouncement in the House of Lords, where he had been careful to state that he was not announcing or purporting to announce decisions or conclusions. Nevertheless, it could not be doubted that his survey of the situation formed an important event in the history of political development in India. "It showed," said His Excellency, "as it appeared to me, a growing appreciation and a sympathetic understanding of the complexities and difficulties of Indian political problems. You will have gathered from the Parliamentary reports that the general lines of the pronouncement were not seriously challenged in the British Parliament." His Excellency trusted that he was not too optimistic in his belief that a temperate examination of the problems in an atmosphere free from suspicion and prejudice might lead to a more earnest and sincere co-operation and good-will from Indian politicians. "I cannot hope," said His Excellency, "to convince all sections of those who take an interest in public affairs. But if we are to advance towards a solution of our problems, we must get rid of the elements of bitterness and suspicion, which breed their evil progeny, alas! too rapidly, and try whether the spirit of good-will may not prove a solvent for difficulties which have hitherto seemed to defy solution.

"I would ask those who may differ from me to bend their minds for a moment towards me, and to weigh observations based upon the experience of a life-time and applied to Indian affairs by one who claims to be devoted to India and her interests.

"I came to India charged with the duty of helping to establish the Reformed Constitution and of assisting the country along the road of advance mapped out in the declaration of August 1917. The first great measure in pursuance of the new policy had been embodied in an Act of Parliament. It was unfortunate that this new system was launched at a period when the atmosphere was charged with bitterness and animosity. It is unnecessary to recapitulate the difficulties it encountered from the moment of its birth. They are still fresh in our minds. It suffices for the moment to recall that it met with determined opposition from certain sections of the community, directed at first from without the Councils and latterly also from within. Remember that this was a newly-fashioned Constitution—indeed a constitutional experiment without precedent—designed to meet the peculiar complexities of the situation in India. It had no doubt its imperfections, but it was the product of deep thought and the outcome of a genuine desire on the part of the British Parliament to give effect to the patriotic aspirations of Indian political leaders and to initiate a system of self-governing institutions. Much of the criticism directed against the Constitution was clearly in the nature of a protest against the refusal to grant complete self-government at one step. But the ranks of the critics were also swelled by those who argued that the system did not fulfil the intentions of its authors and suffered from

obvious defects which should be removed. These charges deserved examination, and after three years' experience of the new Constitution my Government, with the approval of His Majesty's Government, decided that inquiry should be made not with a view to altering the structure, but for the purpose of determining whether any measures could be devised whereby the system might work more smoothly and efficiently. These problems were examined by the Reforms Inquiry Committee, to whose labours both my Government and all those who are interested in the working of the Constitution owe a debt of gratitude."

His Excellency regretted that the Committee had not been able to come to unanimous conclusions. "The majority have made a series of recommendations," said His Excellency, "which taken broadly appear to be acknowledged as suggesting improvements on the existing practice. They are fashioned with a genuine desire to improve the present machinery. I do not of course claim for them infallibility or deny that they must be examined in detail with some care. My Government are prepared to accept in substance the view of the majority that the Constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them." The Government could not, however, at present commit themselves to all the individual recommendations or to the form or method by which they should be carried into effect, inasmuch as there had not been sufficient time for full consideration of them with the authorities concerned or even by His Excellency with his Council. An opportunity would be afforded to the Legislature for debating the policy, before final conclusions were reached, and every consideration would be given to the views presented to Government. The minority had stated that they had no objection to many of the proposals of their colleagues, but they were unable to accept the report of the majority because they desired to progress more rapidly and by different methods. In their opinion, no substantial results would be produced by the process of amendment of defects recommended by the majority. "Briefly," said His Excellency, "the minority ask whether the Constitution should not be put on a permanent basis with provision for automatic progress in the future, and they are in favour of a system of Provincial autonomy. They press for an early enquiry with a view to fulfilling these aspirations."

In effect, the recommendations of the minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution. The issue at the moment between them and the Government of India is largely one of time for the appointment of a Commission. "I understand their impatience," continued His Excellency, "but my Government and I, after most carefully weighing their views, have reached the conclusion that the moment for an inquiry has not yet arrived." His Excellency believed that the present moment was especially favourable for a combined effort to work the Constitution. The period of financial stringency seemed to be passing away, a notable beginning in the remission of provincial contributions had been made, and His Excellency trusted that these new resources would strengthen the position of Ministers. Another change of importance had been made in the proposals of the Lee Commission. It had been one of the complaints of Ministers that the organization of their superior services through which their Departments were administered lay not in their hands but in those of the Secretary of State. Steps were

being taken to give effect in this respect to the principles laid down by the Joint Select Committee of Parliament that Ministers should have the fullest opportunity of managing that field of government which was entrusted to their care. Recruitment by the Secretary of State for the Indian Educational Service, the Indian Agricultural Service, the Indian Veterinary Service, the Buildings and Roads Branch of the Indian Service of Engineers and in Bombay and Burma for the Indian Forest Service had ceased, and in these branches of the administration Ministers would be authorised to start building up by new recruitment their own Provincial Services, subject only to such restrictions as experience showed to be necessary for safe-guarding the integrity, the independence and the efficiency of Public Services. The problem of the Indian Medical Service was more difficult, but here too the principle of establishing Provincial Medical Services had been accepted subject to certain conditions which were under consideration. In any event His Excellency thought that it was too early to pronounce a final verdict as to the failure or success of Dyarchy, His Excellency himself having come to the conclusion that "Dyarchy, whatever its deficiencies may be, has so far proved more successful in its operations than some of its friends and most of its critics could have expected. We shall be in a far better position and in a comparatively short time to form a final judgment, if the system is worked in the future with general goodwill and co-operation."

His Excellency referred to Lord Birkenhead's speech where he had "disclaimed on behalf of the British Parliament any monopoly in the art of framing Constitutions and where he had invited Indians to produce a Constitution which 'carries behind it a fair measure of general agreement among the great peoples of India,' and had given an assurance that such a contribution would be most carefully examined by the Government of India, by the Secretary of State himself and by the Commission whenever that body might be assembled. "The time which may elapse before re-examination of the Constitution," said His Excellency, "whenever that may happen, could not be better occupied by public men in India than by devoting serious practical thought to these problems. We are not wedded to our own particular methods of attaining our object. Whatever may be proposed will be the subject of most careful examination by the Government of India, and eventually by the Commission before it is submitted to the British Parliament. The Commission should know whether there is any general consensus of opinion among the various classes and communities of India as to the direction in which the development of self-government within the Empire should be sought. Should we persevere in our proposed course or is there an alternative line of advance which would be more in accordance with Indian ideas and would receive the support of the numerous interests concerned? If any alternative methods are to be suggested, much hard thinking is required. Constitutional problems are not solved by a phrase. Account must be taken of unparalleled complexities—diversities of race, diversities of religion, striking diversities of intellectual development and a social organisation which separates classes with a rigidity unknown in any other great country. It must be kept steadily in mind that it is a primary duty of Government to provide security against external aggression and to preserve peace and order within its territories, and in India it is imperative that adequate means should be devised for

the protection of minorities. No greater problem in self-government has ever been set before a people. No problem has ever more assuredly required accurate and practical thinking.

"There are many in India at the present moment who hold the solution lies in Provincial autonomy. The principle that local affairs should be administered by Local Governments is one that commands general acceptance. But if we are to avoid disintegration—a danger that the history of India constantly emphasises—there must, in my judgment, be a strong Central Government capable of exercising a legitimate degree of supervision and control. The relations of such a Government to a number of so-called autonomous Provincial Governments have not yet been thought out. It can scarcely be contemplated even by the most ardent friends of Provincial autonomy that there should be nine or more, and as some contend many more, separate and independent Provincial Governments entirely free in all directions from supervision and control. Before any scheme of Provincial autonomy could be established, the functions that should be entrusted to them and the degree of supervision and control to be exercised over them must be explored with patience. Here is an unlimited field of work waiting for those who, like the minority of the Reforms Inquiry Committee, believe that the present Constitution must be radically amended. Meantime close contact with the practical working of the present machine will provide a useful corrective against too great an obsession with theory, which history shows to be a danger ever lurking in wait for the drafter of Constitutions."

Concluding his speech, His Excellency said: "I would draw attention to an attitude not uncommon among politicians that the programme and conditions of advance laid down in the preamble of the Government of India Act are a humiliation to India in that the prescription of successive stages and the testing of each stage by results is a reflection on the capacity of Indians. Be it remembered that we are engaged on a problem new to India and new also to the British Parliament. I think the nature of the problem as it presents itself to the British people is not fully appreciated by those who express themselves as humiliated. They assume that the path to self-government lies along a broad metalled road, and that if they could only be freed from the impediments and restrictions imposed by the present form of government, they could run safely, rapidly and directly to their goal. To my mind the problem presents itself under a different figure. I think rather of a man picking his way through unexplored regions towards his destination which glimmers faint, but clear in the distance. He halts on firm ground and seeks the next spot to which he can safely entrust himself. A rash step may engulf him or delay his progress indefinitely. His advance may not be rapid, but it is well and surely planned. As he advances, experience teaches him to distinguish more certainly and quickly the firm ground from the treacherous surface. And so he wins to his ultimate goal."

"Gentlemen, if I may strike a personal note, the natural term of my period of office is rapidly approaching, and my future opportunities of addressing you, the Members of the Indian Legislature, must necessarily be few. I have spoken to you to-day from the conviction of my heart—I trust without rousing a tinge of bitterness or animosity. I have expressed to you the thoughts of one who, whatever mistakes or errors he may have

committed, has a warm affection for India and a deep devotion to her interests. For these reasons I have been desirous of carrying you with me along the only avenue which, in my judgment, can lead to the Promised Land—to the proud heights of India's destination. It is my earnest prayer that India, with the co-operation of all of us—of every race, community and interest—that wish her well, may avoid the pitfalls that beset her path and win through to the goal to which her fate is set."

### *Questions and Answers.*

Excluding those of which private notice was given, 999 starred and 191 unstarred questions were put and answered in the Legislative Questions and Answers Assembly, and 145 questions were answered in the Council of State. There were days when the full hour allotted to Questions did not suffice to exhaust the list, and here were also occasions when Questions took up only a few minutes. Government does not hesitate to give information whenever, consistently with public interest and other considerations, it can do so. There was no evidence of dissatisfaction on this account on non-official benches even though sometimes government had to decline to answer certain questions on the ground that the time, labour and cost involved in collecting the information required was not commensurate with the end its publication would serve.

The subjects of interpellation during the Simla session were not very different from those of former sessions. The increasing association of Indians in the public services, the representation of Muhammadans, Sikhs and minority communities in various Government services, the grievances of individual officers, and the position of Indian students in foreign countries engaged the attention of the Legislature. Questions were also directed towards currency, securities, the protection and development of industries, cinemas, railways and the air route to England. The position of Indians abroad did not by any means play an unimportant part. The crisis in the cotton mill industry was responsible for some interpellations, and the adoption of a rupee tender for purchases by the Indian Stores Department and purchases by the Army Department continued to elicit inquiries. Super-tax and Income-tax offered another field. The British Empire Exhibition, in which the Legislature had previously taken an interest, did not escape its attention, and there was no falling off in the keenness which has always been shown in questions relating to the constitution.

Mention has already been made of the reference His Excellency the Viceroy had made to the Members of the Central Legislature who had recently died. References were also made by Current Topics members to the deaths of Lord Rawlinson, Sir Surendranath Banerjea, and Mr C R Das, tributes were paid from all quarters to the services they had rendered, and regret was warmly expressed at the loss their demise entailed.

On the 22nd August the election of the non-official President was held. Mr V J Patel and Diwan Bahadur T Rangachariar were the two candidates. By 58 votes against 56 Mr Patel was declared to have been elected. On the 24th August 1925 a message was read from His Ex-

Farewell to Sir Frederick Whyte



cellency the Viceroy and Governor General approving the election of Mr Patel. Then followed interesting speeches of farewell to Sir Frederick Whyte and of welcome to the new President. Sir Alexander Muddiman on behalf of the official Benches expressed regret at Sir Frederick leaving the Assembly and offered them best wishes and hopes for his future prosperity and success. The Home Member remarked that Sir Frederick had truly laid the foundations of procedure on which, he trusted, succeeding Presidents would develop what in the end would be a magnificent superstructure. He testified to the absolute impartiality and complete fairness with which Sir Frederick had exercised the powers of control and paid a tribute to the manner in which those powers had been exercised. On behalf of the Swaraj party, Pandit Motilal Nehru referred to the very high standard which Sir Frederick had set and remarked that he had discharged his duties "with conspicuous ability, becoming dignity, and unfailing courtesy and fairness." Mr Jinnah said that Sir Frederick had "displayed a sound sense of judgment, a great presence of mind, quick decision, and always the best of intentions to arrive at the fairest and most impartial decision." On behalf of non-official Europeans Sir Darcy Lindsay expressed regret at the loss of their "guide, philosopher and friend," and said that were it not for the fact that the rules required that they should elect their new President from amongst themselves, and any departure from the intention of that rule might have been misunderstood, Sir Frederick's friends in the House would have liked to pay him the compliment of asking him to accept the Chair until the end of the present Assembly. Diwan Bahadur T. Rangachariar said that if the Government was proud of the incoming President, it was prouder of Sir Frederick Whyte, who as the first President had made his mark and had made the whole world take an abiding interest in the way in which they were progressing. In the course of his reply Sir Frederick Whyte said that he was a debtor to the Assembly for many things, for their unfailing co-operation with the Chair, for their cheerful acceptance of his rulings and for their great forbearance, and the Assembly had now added a new account to his debt by the manner of its farewell.

In the election of the new President a landmark had been reached in the Government of India Act, and the occasion was historic. In welcoming the elected President, Sir Alexander Muddiman as Leader of the House assured him of the support which he said "it is your right to expect and it will be my duty to accord. You have been called to a great office with great responsibilities, and we have a confident hope that you will discharge them greatly. I trust that the relations that have existed between the Chair and the House during the tenure of office of your distinguished predecessor will continue." Pandit Motilal Nehru accorded a most hearty welcome, and said that Mr Patel had filled them with high hopes of expectation which he would worthily fulfil. Mr Jinnah hoped that Mr Patel would try his utmost to fulfil the expectations of his friends. Sir Henry Stanyon said that by his election Mr Patel had become detached from his political adherents and private political friends, he was now at one and the same moment the ruler of procedure in the House and the bondsman of the conventions which surrounded and sustained the Chair. As a Member of the House

and as his Deputy, Mr Rangachariar promised Mr Patel his hearty co-operation in the discharge of his duties. Mr Patel thanked the Assembly for having elected him and assured the Members that he had accepted the office with high hopes and with a full realization of the implications involved in it. He appealed for co-operation and assured the House that he was in every sense of the term ready to extend his co-operation. "In the discharge of my duties, I shall, I assure you," said Mr Patel, "observe strict impartiality in dealing with all sections of the House irrespective of party considerations. From this moment, I cease to be a party man. I belong to no party. I belong to all parties."

In the issues dealing with preceding sessions under Current Topics have always been grouped motions for adjournment. There was only

Motion for adjournment one such motion during the session, when on the 25th August Mr Jinnah asked for leave to move the adjournment of the business of the Assembly to discuss a definite matter of urgent public importance, namely the composition of the Currency Commission. In moving his motion Mr Jinnah referred to Mr Venkatapatı Raju's Resolution, which had been carried during the Delhi session recommending that a Committee with a majority of Indian non-officials on it and with an Indian Chairman be immediately appointed to examine the whole question of exchange and currency. He said that Sir Basil Blackett had objected to the terms of the Resolution but had agreed that there should be an effective and adequate representation of Indian interests on the Committee. Mr Jinnah remarked that both the public and the press were dissatisfied with the composition of the Commission and considered that Indian interests would not be adequately and effectively represented on it. Mr Jamnadas Mehta complained that the Government had defied the Resolution of the Assembly, that the six European gentlemen did not command the confidence of the Indian public, and of the Indian members, excepting Sir Purshotamdas Thakurdas, not one had succeeded in any Local Board election much less in any election for the Legislative Assembly. Mr D P Sinha complained that the largest interest in the country, namely, agriculture, was unrepresented on the constitution of the Commission. Mr Venkatapatı Raju stated that there were six conflicting interests—equity between debtor and creditor, equity between the taxpayer and the Government, and equity between the exporting merchant and the importing merchant, and inquired which interest Sir Basil thought would be represented by the gentlemen on the Commission. Sir Basil Blackett, replying to the debate, said that the arguments which had been advanced were mutually destructive, and every one of those who had spoken would have spoken against the personnel of a Committee appointed by anyone of the other five. He protested against the manner in which the debate had taken the form of a discussion of the merits of the ten gentlemen who were on the Commission. "I do put it to this House that it is not doing justice to itself and it is making a very bad impression on the world in general if the immediate effect of the appointment of Indians with knowledge of the subject to a Commission is that their qualifications and qualities are belittled in this House." Referring to the Resolution passed during the Delhi Session, the Finance Member recalled what he had said and observed that though he had then hoped that the Committee would be appointed within twelve months, it had been appointed in just

seven months, and that the terms of reference were so wide that no one had objected to them. As to what interests the ten members represented, the Finance Member said —“I state quite confidently that they have been chosen to represent one interest only and that is the true interest of India taken as a whole, that is the only matter that is under consideration—the interests of India.”

There are ten gentlemen and they are likely to be very adequate and effective in representing Indian interests.” The Finance Member said that he had given a definite undertaking that the Government would see to it that there was adequate and effective Indian representation and he asserted that that undertaking had been fulfilled. Proceeding, he said —“Essentially what you want is a set of gentlemen who are thoroughly impartial, who have not, so far as possible, committed themselves in advance to particular views, who have a wide knowledge of Indian conditions as well as of financial conditions and who are capable of arriving at an unprejudiced and unbiassed judgment after listening to the evidence on the subject matter of their terms of reference.”

It is a very big task requiring very expert and very wide knowledge, and it does not require the representation of this industry, that industry, labour, capital, debtor, creditor or taxpayer or Government.” He advised the House not to pass a derogatory motion in regard to the Commission before it came out. Pandit Madan Mohan Malaviya regretted that criticisms had been passed upon some members of the Commission and contended that the main suggestion of the discussion was not that the members who had been appointed should be cashiered but that a few additions should be made. Pandit Motilal Nehru said that the reason why these ten gentlemen, European or Indian, had been appointed was that they had the courage of differing from the views of the public in India, and he criticised the Finance Member's attitude as disclosing that he believed that the true representatives of Indian interests were not Indians but Europeans. Sir Alexander Muddiman asked the House to bear in mind that men of great reputation and standing would not take part or care to serve on any Commission relating to India if they were to be charged with lack of impartiality or with having made up their minds before they took part in those Commissions. Mr Jinnah agreed that personal attacks on individual members of the Commission were not right and asked the House to vote on one issue only, namely, that Indian interests were not adequately and effectively represented on the Commission. Sir Basil Blackett remarked that whereas in 1913 and 1918 only one Indian had been appointed, on the present Commission there were four Indians and an Indian Secretary, which, he thought, was considerable Indianization. He said that the direct effect of the vote would be a vote of censure on the four gentlemen who had been appointed to the Commission. He appealed to the House to content itself with the discussion in which a considerable number of Members had expressed their opinions and to withdraw the motion. The motion was, however, pressed to a division and carried by 64 votes against 45.

### *Resolutions*

Previous Sessions have shown the anxiety of the Indian Legislature with regard to its constitutional position and powers and it was only natural that the most important resolutions of the last Session, were those

connected with the Report of the Reforms Inquiry Committee. The main resolution on this subject was moved by Sir Alexander Muddiman in the Legislative Assembly on the 7th September 1925 and by Mr. Crerar in the Council of State on the 11th September 1925 in the following terms —

“ This Assembly recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government ”

In referring to the history of the appointment of the Reforms Inquiry Committee the Home Member turned to the terms of reference and said that while the first part—the scope of the inquiry

Reforms Inquiry Committee Report in the Assembly

into the defects—was wide, the second part dealing with the suggestion of remedies was definitely restricted. The restriction gave the answer to the criticism that the Committee had not made wider recommendations. Sir Alexander referred to the difficulties of such an inquiry and particularly to the fact that many of those engaged in working the reforms were still occupying the offices to which they had first been appointed.

“ The real difference in a few words between the report of the majority and the report of the minority ” said the Home Member “ is that the majority say that the existing constitution is capable of amendment and should be amended in the way that the report suggests. The minority report, while not hostile to many of the recommendations and perhaps even favourable to a few, takes the line that the present constitutional machinery needs structural changes beyond the scope of any remedy within the terms of reference ” The Home Member asked the House to accept the policy of improving the existing constitution and to consider the recommendations which had in this behalf been made. “ I cannot commit the Government of India to any particular individual recommendations, but I do say and I do ask the House to agree with me that these are valuable recommendations which need consideration as likely to lead to improvements which practical men ought seriously to consider ” Proceeding the Home Member said that it had been urged that the recommendations would satisfy no one, that the machine had been a failure and would not work, that seeing that the Commission had to come it was no use dealing piece-meal with this large question, but he refused to subscribe to these views. The machinery was neither simple nor uncomplicated and it was only by trial that it could be noticed as to where it ran hot. Dealing further with the difference between the minority and the majority reports, the Home Member referred to the end of the former report where the minority had asked for a Royal Commission and said that the issue was one of time. Sir Alexander relied on His Excellency the Viceroy's speech where he had said that if based on the material now available the results of the inquiry could only lead to disappointment, and he strongly emphasised how especially qualified his Excellency was to give the opinion and further that he was in a peculiarly good position to estimate and judge current events and probabilities in the political world because he had only recently returned from England.

## INTRODUCTION

envisage automatic but gradual progress. He also referred to section 84A of the Act under which the Statutory inquiry must take place not later than 1929, and quoted from the speech of the Secretary of State showing that the door was still open, but he added it was not open to menace or to violence. The Commission might be appointed earlier than 1929, that could only be on the conditions laid down by the Secretary of State. It would have to consider, *inter alia*, the past working of the Act and an account of their stewardship would have to be given both by those who had worked the reforms and those who had not. From the first Assembly and the first Council of State a large and important body of educated opinion had stood aside. The experience of the second Assembly, but the first Legislative Assembly had not had the assistance of those who were now present. What opinion would the Commission form on the facts still developing? The question of the date of the appointment of the Commission has never seemed to me personally "observed the Home and events available?" "I have always thought that great and important attention has been directed to that point. What is really important is what you will lay before the Commission when it is appointed. You do not want a Commission to come out when you have nothing to lay before it. When the talents are demanded of you, what answer will you give?" Nearly six years have passed and our proceedings have been written down. Do we wish the next years to pass in the same way? Are we to remain estranged and attempt to deal with this problem—a problem the greatest which has ever presented itself to the human race, for you are building a constitution not for a nation but for a Continent—can we afford to stand aside, can we afford to remain, as I sometimes feel we are remaining, on the one hand a party trying to storm a fortress, on the other hand persons defending that fortress as if their lives depended upon it? Sir, that is not the way in which constitutional progress and constitutional reform can be effected. His Excellency the Viceroy had made an eloquent appeal for co-operation, the Secretary of State had indicated that there was everywhere among responsible leaders of Indian thought that the existing constitution might be accelerated on condition of a sincere and genuine desire to co-operate in making the best of the existing constitution. That, Sir, Alexander Muddiman claimed, was the essence of his resolution. Pandit Motilal Nehru moved the following amendment—

"That for the original Resolution the following be substituted—

"This Assembly while confirming and reiterating the demand contained in the Resolution passed by it on the 18th February 1924, recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India—

(a) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India.

(b) The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and

appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India

- (i) Expenditure on the Military Services up to a fixed limit
- (ii) Expenditure classed as political and foreign
- (iii) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India
- (c) The Council of the Secretary of State for India shall be abolished and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self-governing Dominions save as otherwise provided in clause (b)
- (d) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for service in all arms of defence and for that purpose, the Governor General and the Commander-in-Chief shall be assisted by a Minister responsible to the Assembly
- (e) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible
- (f) The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to traditional reservations and residuary powers in the Governor General in respect of the control of Military and Foreign and Political affairs for a fixed term of years

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as 'Defence' shall be submitted to the vote of the Legislature, but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed

- (g) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters
- (h) The Indian Legislature shall, after the expiry of the fixed term of years referred to in clauses (b) and (f), have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable

This Assembly further recommends to the Governor General in Council that necessary steps be taken

- (a) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf,
- (b) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute "

In moving his amendment Mr Nehru said that the Home Member's resolution contained recommendations involving some of the most controversial questions which were agitating the public mind "What we are trying to do is to find a place in the sun for ourselves" said Mr Nehru "If we are to have it, we shall need no recommendation from you for the

lying it. Something could be done under the Government of India Act and that something was contained in the recommendations, but it would neither meet their requirements nor was it worth having. The principle, Mr. Nehru inferred from the recommendations, was "Give as little as you can and make sure that in that little you give, the power and prestige of the bureaucracy is not in the least jeopardised." Neither Dyarchy with responsibility in the Central Government, nor Dyarchy in the provinces had succeeded. In its concluding Chapter the Montagu-Chelmsford Report had recognised that the scheme was charged with the potentiality of friction, but it had expressed the hope that it would work smoothly. Mr. Nehru denied that Dyarchy was a new experiment because, he said, it had been tried in Canada and had failed. The results in India had been the same. He criticised the manner in which, he said, the majority report had got over the overwhelming evidence which witnesses had given of the failure of Dyarchy. Instead of giving a clear pronouncement that Dyarchy had not succeeded, the Committee had indulged in a quibble. The minority, Mr. Nehru observed, had been clearer and more precise in saying that the present system had failed, and Mr. Nehru could not understand how a hybrid system introduced by speculative constitutionalists could have resulted otherwise. He next quoted from the Secretary of State who, he tried to show, was also distrustful of Dyarchy. Though Lord Birkenhead had not said that Dyarchy had failed he had nowhere said that it had altogether succeeded. Mr. Nehru understood him to have said that Dyarchy had "succeeded where it was not Dyarchy at all." The system stood condemned and yet, Mr. Nehru complained, they were held bound to it. The position to Mr. Nehru's mind clearly was "that you have either to give us real reforms or to go back to your time-honoured methods of autocratic rule."

Coming to his amendment Mr. Nehru said that in its first part it asked for a declaration by Parliament embodying certain fundamental principles. In 1924, Mr. Nehru had asked for a round table conference, which had been refused and he was now making the present suggestion because of the very generous invitation which had been extended by Lord Birkenhead. He asked Government to agree to the principle because without it it would be impossible to frame a constitution which would answer the requirements of the time. Briefly, the principle was that they wanted responsible government in the Central Legislature and the executive, with certain reservations, to be responsible to the Legislature. Dealing with the reservations in his amendment Mr. Nehru pointed to the military expenditure and said that in the suggestion that they had made they did not admit that they could not do the task if they undertook it, but they were making the offer because it had been agreed upon by all nationalists. He asked the Government to take the offer in the spirit of settlement and added that if they did not, it would not be binding on the Swarajists. They wanted the abolition of Dyarchy and the right to frame their own constitution. After Parliament had made the declaration, Government might have a Convention, a round table conference or any other agency they liked so long as it was representative. Replying to the Home Member's remarks about those who had stood aside during the first Assembly, Mr. Nehru tried to explain how non-co-operators had acted and added that the section which had worked them had also admitted that the reforms were a failure and that the machine was over-

clogged Mr Nehru remarked that those who had taken to non-co-operation had been persecuted and that they had entered the Legislatures to mend or to end the constitution They had first engaged themselves in mending it, if they failed, they would take to ending it Their national demand had been put in the resolution of February 1924, Sir Malcolm Hailey had formulated the Government policy and had said that if the committee reported that no improvement within the Act was possible the question of the revision of the Act would be left open Mr Nehru maintained that the defects in the constitution had been conceded and he asked Government to revise the constitution in a manner acceptable to the country The Swarajists refused to accept the Preamble to the Government of India Act, they had suffered in the past, they were prepared to suffer in the future The fundamental principle of devising a constitution for India must be "self-determination" Dealing further with his amendment, Mr Nehru said that he was not asking the Government to do more than His Majesty's Government had done in following the wishes of the people concerned in framing constitutions for Australia and South Africa Mr Nehru asserted that the Swarajists would not be diverted by strong words in the pursuit of their birth-right If the door of co-operation was not open to threats, still less would it be stormed by force In further commending his amendment Mr Nehru said that it would clarify the issue as to what the Royal Commission would do Wise men were not slaves of facts and Mr Nehru said that they were not slaves of Preambles either All Acts of Parliament were the results of its wisdom and experience It could set aside its own Acts, and Mr Nehru asked it to do the same with regard to the Government of India Act If the first condition for further advance was co-operation, Mr Nehru said, "My first condition, as clear a condition as your own is, is that unless you show a change of heart, we are not going to co-operate The hand of fellowship was extended to you in no grudging spirit by the late founder and chief of the Swaraj party You have rejected it, but I am here to say that I and my party stand by what he said" (Mr Das's Faridpur speech) If Government did not accept it, the Swarajists would be forced to go on the road they had first chosen "When there is no alternative open to us, we must take the road leading to it (civil disobedience), however, long and weary it may be Civil disobedience may not come for years, but it has to come one day, and the sooner we begin our preparation the better" Continuing Mr Nehru said "The history of the so-called reforms is painful and depressing reading at present, but as it develops in the near future, it will, I am confident, furnish the brightest chapter to the chequered history of this land The struggle for freedom once begun must sooner or later have its appointed end, and that end is no other than the achievement of the fullest freedom It remains to be seen whether England will share the credit of that achievement by willingly giving a helping hand or suffer that achievement to be wrested from her unwilling hands These are the only alternatives It is for England to choose"

Colonel Crawford commented on Mr Nehru's refusal to serve on the Reforms Inquiry Committee and congratulated the members of the minority on having served on it Colonel Crawford denied that Dyarchy had failed, but admitted that it was unpopular and claimed that its unpopularity was the chief evidence of its impartiality He was agreeable



to the appointment of a Royal Commission earlier than 1929, but he felt that the demon of distrust must be exercised before the Commission was appointed. Referring to the difficulties in the way of India being given responsible government, Colonel Crawford expressed the view that India was not a nation and he thought that India should have a representative rather than a democratic Government. He strongly pleaded for co-operation. Sir Sivaswamy Aiyer approved of all the recommendations of the majority report, but considered them inadequate and unsatisfactory. To him it was surprising that Dyarchy which had been so much condemned should have found such strong champions from the Secretary of State downwards. The reason appeared to him to be that they had first condemned Dyarchy because they had objected to any transfer of power, and now they were supporting Dyarchy because they felt that any further advance would mean greater transference of power to which they were opposed. If the Commission was fairminded, Sir Sivaswamy Aiyer thought that it would easily discover the answer and he declined to share the fear that its verdict would be against India. Want of co-operation, Sir Sivaswamy Aiyer thought, did not imply want of capacity, and if the only inference that could be drawn from the abstention of the non-co-operators was that they were opposed to the British connection, the Commission might well be influenced by it into reporting against a further advance. But the real meaning of the attitude of the non-co-operators to Sir Sivaswamy Aiyer was that they were not satisfied with the measure of reform and the promise of advance, and the strength in which they had now entered the councils showed their desire to take part in constructive work. Sir Sivaswamy Aiyer did not feel that any inference could be drawn from the lack of co-operation as to the amount of confidence which could be placed in the sense of responsibility of those on whom new opportunities had been thrown. He referred to the work of the first Assembly and claimed that Government had received the fullest measure of co-operation and after the tribute the Government had then paid them, it would be hardly fair to turn round and say that they could not place any reliance on their sense of responsibility. Sir Sivaswamy referred to Mr. Patel's election as President and argued how opportunity for responsibility made people sober and rise to the needs of the occasion. Explaining why people had turned non-co-operators, Sir Sivaswamy Aiyer said that they were not convinced of the sincerity of the professions of British statesmen. He gave Government credit for all the improvements in the country, economic and otherwise, but maintained that the attitude of distrust was to a large extent justified. He urged on the Government the necessity of revising the constitution and said that failure to do so would increase bitterness and distrust in the country. Pandit Motilal Nehru's amendment embodied the demands of the Liberal Party and though Sir Sivaswamy Aiyer recognised that there were difficulties in the way of Government, he did not consider them insuperable. Mr. Shanmukham Chetty said that though the intentions of the framers of the Government of India Act might have been good, their judgment was wrong. He claimed that Dyarchy had failed from its inception and that the majority report had failed to do justice to the facts which had been put before them. Co-operation, Mr. Chetty said, must be mutual and there could be no real co-operation unless Government gave an earnest of their change of heart and their *bonâ fides*. Mr. H. G. Cocke asked the

House to remember that India was a continent and not a nation and among the difficulties to be faced he mentioned the Indian States, the possibility of attack from the sea, communal differences, etc. He saw no logic in rejecting the recommendations of the majority report and pointed to the progress the country had made under British rule. He warned the House against committing itself to any violent change, because the chaos resulting from it might have a serious effect on the progress which had already been achieved. Mr. Ranga Iyer held English officials responsible for communal differences and claimed that Indians could settle them, but so long as the British continued it would be impossible. He quoted from Sir Charles Bruce's "The Broad Stone of Empire" to show that the position in Canada and South Africa was more desperate than that of India at the time they were respectively granted self-government. When these countries and Ireland had been given freedom, Mr. Ranga Iyer saw no reason why India, with a greater past, should be denied her liberty. Mr. Rangachariar dwelt on the importance of the subject to Government and said that the real object of the Government of India Act was to train people in the art of responsible government and quoted Sir Alfred Mond to show that in this purpose the Act had failed. He inquired as to how long they were to tolerate the system of an irresponsible and irremovable executive sitting in the Himalayas. Though Englishmen were not the slaves of dates, they were the slaves of phrases, otherwise Mr. Rangachariar saw no reason why they should insist on standing by the Preamble to the Government of India Act. If they meant to stand by the Preamble they should make it clear and he would at once bid good-bye to the Assembly. He advised Government to deal with the intelligentsia and to realise the significance of a demand which was made on behalf of all parties. He asked Government to agree to some fundamentals, so that the country could devote itself to constructive work.

Sir Charles Innes expressed his sense of disappointment at the amendment. He had hoped that the offer of the Secretary of State and the speech of His Excellency the Viceroy would lead to an offer to work the reforms whole-heartedly. The objective of every one was responsible government for India, though they differed as regards the manner, the measure and the time of advance. The amendment asked first for a declaration, and then for a round table conference, but it left it vague as to whether the recommendations of the conference would be subject to the approval of Parliament. Sir Charles dealt with the importance of the Preamble to the Government of India Act and said that the amendment challenged the proposition that any extraneous authority could settle the constitution. To pass the amendment, Sir Charles Innes said, would be throwing back with contumely the offer of His Majesty's Government. The claim made in the Preamble could not be allowed to be derogated from by the Assembly. "The British Government hold the responsibility for the people of India, not for one section of the people, not for the intelligentsia, not for the people that I see round me in this House, but for the whole people of India. That is the claim that is stated in the Preamble and that is the claim which we on the Treasury Benches cannot allow you in any way to diminish or derogate." The amendment amounted to telling the British officials "Thank you—work is done." Sir Charles Innes said "When you come to us and"

us that, we have a right to ask, in the first place, what are your credentials? In the second place, what guarantees can you offer for that stability without which the self-government that you claim will be a mockery and a danger?" Dyarchy was the best device they could think of for the transitional period and Sir Charles Innes did not admit that it had failed, though he admitted that it was difficult to work. The real question, the Commerce Member thought, was not whether Dyarchy was in itself good, but what they were going to put in its place. The alternative suggested by the other side, namely, "full self-government subject to certain safeguards" was the logical answer. But there were difficulties in the way of the demand. Sir Charles did not complain of lack of ability or lack of responsibility or fear of anti-British action. But the difficulties lay in the size of India, the social structure and the want of fundamental unanimity. On the one hand there was a desire for full self-government, a perfectly natural and legitimate desire, which officials respected to the full. On the other hand, they could not help seeing the grave dangers of that advance being too premature. "It is just as if we were on the edge of a cliff and at our feet there were a deep abyss." Proceeding Sir Charles Innes said "I personally have got no solution to offer for that difficulty, and I do not believe that anyone of the Honourable Members opposite has any solution for it and that is why we, His Majesty's Government and the Government of India, feel that the only possible way of finding a solution of these difficulties is to have an examination by a perfectly impartial Royal Commission. We say that for the solution of that problem we must get the greatest brains in the Empire Indian and European must work together in the solution of the problem.

Believe me, Sir, when we talk about co-operation in the solution of this problem, we must clear our minds of all cant. Let the co-operation be real, let there be no spirit of bitterness. Let there be no spirit of malice, hatred and all uncharitableness. It is, as I say the greatest problem that has ever faced the world, and if we are to solve this problem, we must attack it in the words of the English prayer book 'With a humble and contrite heart'."

Mr T C Goswami said that if the report of the minority was biased, so was that of the majority, because Government members had been bound by the trammels of office. The history of India, he continued, must be poor and trivial if Lord Birkenhead's speech was to be a landmark in it. Mr Goswami quoted from a speech of the Leader of the Conservative Party in 1914 threatening armed revolution in Ireland and said that Lord Birkenhead who in 1920 and 1921 had gloated over the reprisals in Ireland had lived to support the Irish Free State Bill in 1922. Mr Goswami asked the House not to vote for the amendment if they were going to flinch from the consequences of supporting it at all costs. Sir Purshotamdas Thakurdas complained that Sir Charles Innes had done his best to cloud the issue. He explained that Sir Muhammad Shafi having said that if he had been free he would have signed the minority report, the latter report really represented the views of the majority. Dealing with the position that no progress was possible so long as the differences between the Hindus and the Muhammadans were so wide, Sir Purshotamdas inquired if Government were certain that by continuing the present system they would within a stated period remove this difficulty. Sir Purshotamdas gave reasons as to why in the Central Government they could no longer tolerate an irremovable and irrespon-

sible executive and he mentioned the position of Indians abroad, the way the Commerce Member had looked after the industries of the country, the manner in which India was being represented at International Conferences and the policy of Government with regard to agriculture. Sir Purshotamdas disclaimed any intention of holding out any threat, but he said that in supporting the amendment, he fully realised his responsibility as a representative of trade and commerce and supported it because he felt that no progress and no relief were possible until something was done. Mr A Rangaswami Iyengar compared the Government of India to a corporation run for the benefit of its shareholders. He tried to show that so long as the theory of a corporation existed, so long as vested rights and privileges existed, it would be idle for England to claim that she was putting India on the road to responsible government. He complained that every step Lord Birkenhead had taken had been taken to protect the interest of the services. Syed Majid Baksh also supported the amendment.

The discussion was continued on the 8th September and concluded that afternoon. Mr Muhammad Yakub said that educated Mussalmans were of opinion that the Government of India Act was inadequate and required to be immediately changed. Dealing with the argument that India should wait till she was fit for responsible government, Mr Yakub inquired if England had waited till she was fit. Mr M V Abhyankar asked that India should be given control over the purse, that the Governor-General should be responsible to the Indian Legislatures, that the officials in the country should be the servants and not the masters of the people, that his Council should be abolished and the Secretary of State himself should be placed on a par with the Colonial Secretary, that the Army in India should be Indianised within as short a time as possible, that election be based on a wide franchise, that the various Local Governments be made responsible to the local Legislatures and the electorate be given the power to control them through their representatives in the Councils. Mr Abhyankar said that the claim of Britain's trusteeship for India was a falsehood, that it was not a trust but a bombastic fraud. He inquired how after Jallianwala Bagh and the manner in which non-co-operators had been sent to jail it could be claimed that the British had given India peace and saved her from the horrors of anarchy. Mr Ramachandra Rao condemned as insignificant the proposals contained in the majority report and regretted that after almost all witnesses had considered Dyarchy a failure, when no responsible person or association in the country had endorsed the proposals of the majority, and when the majority itself had felt that anything done within the terms of the Act would not satisfy public opinion, the Home Member should have come up with his resolution to the Assembly. If the size of India was an obstacle to further advance, that obstacle would continue for ever. The arguments about social structure, communal differences, lack of unity, etc., had always been urged and yet the British Government had each time taken a step forward. Mr Ramachandra Rao failed to see why these arguments were being continually advanced. Diwan Chaman Lall said that the atmosphere in the Assembly was surcharged with unreality. The Treasury Benches were convinced of their power but brute force was a double edged sword which might enable Government to put the people down but would ultimately end the system of Government which was based on it. In asking the people to co-operate in working a scheme which was impossible and unworkable, Diwan

Chaman Lall said, Government were asking them to give up non-co-operation, become beggars and to eat humble pie. That was not a sound bargain and no one could accept such a humiliating position. He warned Government that they had come to the parting of ways and if they did not hold the hand of friendship which was now being offered, Diwan Chaman Lall and his party would raise a storm which it would be difficult to get over. Sir Basil Blackett contrasted the debates of March 1924 with those which had since taken place to show that "there had been a very great deal of co-operation" and he thought that the historian of the second Assembly would eventually say that it had had as good a record in this respect as the first. Dealing with the charge that there was no control over the purse, the Finance Member referred to the Public Accounts Committee and the Finance Committee and pointed to the control the Assembly exercised. He denied emphatically that the interests of India had been neglected and claimed that a Ministry responsible to the Indian Legislature would have behaved in regard to exchange and currency, in the matter of industries, etc. in exactly the same manner as the present Government had done, because it would have endeavoured to conduct its policy for the interests of the people as a whole and would not have been so unwise as to adopt entirely the views represented by the Bombay Merchants' Chamber and Bureau. Coming to the amendment itself, Sir Basil said "It has one great virtue it is open to a Swarajist interpretation, to an Independent interpretation, and to a Moderate interpretation and as far as I can make out the three interpretations are not the same. They are entirely incompatible and will thereby salve the conscience of a large number of people holding entirely different views when they vote for the same Resolution and mean entirely different things." Sir Basil explained that there was a great opportunity before the country which was being thrown away and that the amendment was in form an entire rejection of the invitation to co-operate from the British Government, Lord Birkenhead and His Excellency the Viceroy. The Finance Member examined various questions, including provincial autonomy, to show that the subject needed a good deal of thinking which ought to be done before the Commission came out. Sir Basil appealed to the House to consider carefully the offer made by Lord Birkenhead and the Viceroy and said "If they really mean an offer to co-operate by this rather catholic amendment, let them think whether they cannot frame it or at any rate explain it in a form that will not be what it is at present, a direct rejection of the offer of the Secretary of State to consider any constitution that may have had behind it wide support of Indian opinion and a direct rejection of the Preamble of the Government of India Act, which says that the manner of any advance must be determined by the British Parliament."

Mr Jinnah felt that the political horizon was dark. He referred to the Resolution which had been passed in 1921 demanding an earlier revision of the Act than 1929 and to the Despatch the Secretary of State had sent out on the subject. In February 1924 in Pandit Motilal Nehru's amendment, as passed by the Assembly, it had been stated that the Act was unworkable. The Reforms Inquiry Committee had found that progress of a substantial character within the Act was impossible, and the issue was perfectly clear, namely, as to whether they would have a revision of the Act at an earlier date. The arguments advanced against progress Mr Jinnah remarked, amounted to scandalising the nation. If they were not a nation to-day, would they become a nation

by 1929? When Indians were asked for their blood and money during the War, when India was asked to sign the Treaty of Sevres, when she was asked to contribute towards the expenses of the League of Nations, Mr Jinnah complained, Indians were regarded as a people and a nation, but when they asked for a further advance, they ceased to be a nation. If Indians had been kept out of the army for a hundred years, Mr Jinnah said that it did not lie in the mouth of the Government to say that they were not fit to defend the country. Dealing with the offer of co-operation, Mr Jinnah asked what was Government's answer to those who had co-operated, and further if the Government wanted to bring down to their knees the largest party in India, the Swarajists. He contended that Pandit Motilal Nehru and his party had co-operated and no further proof of co-operation was necessary unless the Government had no ears and no brains. Mr Jinnah inquired as to who was the arbiter of the harbour of Boston, in the matter of self-government for South Africa, Canada and Ireland. He added that if they wanted a revolution in India, they could easily have one. The theory of trusteeship, Mr Jinnah urged, was false and exploded. India had not seen the horrors of anarchy and chaos but she had seen the horrors of being unarmed, of being kept out of the monopoly of administrative appointments, and of being kept in darkness, which were worse than the other horrors. India wanted to free herself, and the only way to do it was to replace the irresponsible bureaucracy by a responsible Cabinet. Concluding, Mr Jinnah said that India was in a difficult position but she was determined to win her freedom. The manner and the measure of the demand could either be determined within a reasonable time by England or India would herself determine them. Seth Govind Das speaking, as he said on behalf of the landlords in his constituency, opposed the Resolution and supported the amendment. Mr Duraiswamy Aiyangar supported the amendment, but deprecated the three reservations contained in clause 2. He complained that even within the terms of reference the Reforms Inquiry Committee had failed to make recommendations which might at least have suited such sections as were making more modest demands.

offer it was when not a comma nor a dot of it was to be changed. If the offer was accepted, the Home Member inquired, what sort of a contract it would lead to—bilateral or unilateral, and what the Government would get in return. Constitutional advance, the Home Member said, could only come from the English Parliament and its good-will. He therefore saw no reason why words had been used which were calculated to prejudice India before that Parliament, and he strongly deprecated the use of expressions like “thieves and robbers” as applied to British officials. The Home Member recognized that the amendment had been put forward in perfect good faith, but to it had been affixed an impossible condition. He regretted that the electorate had not been mentioned in the speeches except by Mr Jinnah. Sir Alexander agreed that it was the business of the Government to settle the difficulties with the help of non-officials, and one of the difficulties was the question of the electorate. He asked the House to remember that it would not improve matters by ignoring facts. The Home Member strongly denied that by pointing out difficulties, they were scandalising anybody. Dealing with the recommendations of the Majority Report, the Home Member felt that it was sometimes wise, in asking for large concessions, to take small ones. If the amendment were accepted, what could the Government point to as the history of the institution when the time came for an inquiry without which no further advance was possible? He asked the House to remember the terms of the offer of the Secretary of State, and not to close the door by making Government’s position more difficult. “Do not give us an ultimatum under the guise of an offer”, said the Home Member. “It is neither wise nor, I suggest, likely to be effective. I earnestly hope that you will believe me when I say that we are not merely giving you a blank answer to what I recognize is an attempt to put down on paper what we have never seen on paper before—the united amendment of both parties.” Dealing with the question of Provincial Autonomy, the Home Member said that the Government of India had invited Sir Frederick Whyte to investigate and report on the relations between the Central and Local Governments in other parts of the world with special reference to conditions in India, Sir Basil Blackett also proposed to have the problem investigated more particularly from the financial point of view. “In my judgment”, concluded the Home Member, “that is the way in which we can prepare what I referred to in my first speech, the necessary evidence which is to be laid before, and must be considered by, the Royal Commission whenever that Commission may be appointed.” Mr Jamnadas Mehta supported the amendment and said that its acceptance by Government would be an acid test of the genuineness of their appeal for co-operation. The Government of India, he said, was insignificant in England, impotent abroad, and tyrannical in India, by accepting the amendment, it would become a real Government in India. Mr Venkatapati Raju supported the amendment. Lala Duni-Chand thought that the time was most opportune for a settlement. Mr Abdul Haye also supported the amendment. Mr Deraki Prasad Sinha dealt with the economic aspect of the amendment and argued that Swaraj was as much an economic as a political necessity. Sir Abdul Quaiyum pleaded for some constitutional advance for his province and urged that no further advance should be made with regard to the rest of India until the North West Frontier Province was ready to move forward with it. Mr M. S. Aney characterised the Resolution as flat and bald and as amounting to a request to the House to give the

Government of India a blank cheque. The present constitution had failed, Mr Aney said, because Government had not consulted public opinion in framing it, and that he urged, was a strong reason for Government accepting the amendment. He appealed to Government to make timely and generous concessions and argued that these resolutions were the symptoms of a mighty revolution in the land which Government could by the steps they took accelerate or check. Sir Darcy Lindsay objected to the amendment on the ground that no time had been given to consider matters of such moment. He saw no point in antagonising the British Parliament and advised against extravagance of speech. He asked the House to consider Lord Birkenhead's offer and not to reject it. Those who asked for a change of attitude, Sir Darcy Lindsay thought, should show a little reciprocity, and he asked them to co-operate in working the reforms for all they were worth because that was the only way to win the goal. He gave a Summary of what the Assembly had accomplished in order to show that the reforms were not a sham and emphasised the value of some of the recommendations of the Majority Report. Mr Joshi complained that the machinery of the Reforms Act was unsuited to protect the interests of the masses, and that the Government of India had failed to do their duty by the working classes. He claimed that there should be adult suffrage and pleaded for the increased representation of labour on the Legislative Assembly, which should be secured by election. Mr Amar Nath Dutt also supported the amendment. Mr M C Naidu supported the Resolution and considered the amendment premature. He characterised as partisan the speeches of Sir Sivaswamy Aiyer and Diwan Bahadur T Rangachariar. Pandit Madan Mohan Malaviya gratefully recognized that there had been progress under British rule, but contended that with responsible government that progress would have been 10 or 15 times greater. He said that if the Government of India took into account Sir Muhammad Shafi's statement, the Minority Report would be converted into a Majority Report, and it was not fair to the Government, to the country and to Parliament to put aside the report of the Minority and give effect to that of the Majority. Since 1886 Mr Malaviya had maintained that India was fit for self-government, and all the time the same old arguments had been advanced against it, they did no good and only hurt the feelings of the people. He remarked that Lord Birkenhead's remarks disclosed his ignorance of Indian history and Indian conditions. In the circumstances in which they were placed, the amendment was all that they could have put forward and Indians had long ago decided to adopt Western institutions, but they had imposed certain limitations. He saw no reason for any complaint against the non-co-operators, pointed to the number of them sitting in the Assembly, and said that the mere defeat of individual motions did not mean that the Members were non-co-operating. Mr Malaviya did not deny the authority of the British Parliament, and stated that the reference to Parliament of the results of the conference or any other agency which considered the constitution constituted an admission of their continued desire for some time to submit to it. He wanted an agreement honourable to India and to England, and asked Government not to regard non-officials as opponents. He claimed that they wished to understand the Government, and begged the Government to understand them. Sir Alexander Muddiman in winding up the debate said that an entirely different



of the amendment had been put forward by Mr Malaviya and inquired whether the mover would accept the gloss which had been put upon it. To the Home Member "any suitable agency" could not include a Royal Commission, and the context appeared to be against such an interpretation. He denied that European officials were the servants of European capitalists and maintained that they had done more to prevent exploitation than anybody else. The Home Member recognized that the tone of the debate had undoubtedly been moderate and that a desire for co-operation had been expressed from all quarters of the House. He asked the House to remember that officials did not like ploughing the sand any more than non-officials did. He did not himself consider that non-co-operation meant the rejection of individual measures, but he claimed that the House should consider Government's proposals on the merits and not put a black mark against them because of the source from which they had emanated. Sir Alexander had no doubt as to the support the amendment would receive in the House and, concluding, expressed his hope that the decision come to would be in the best interests of India. Pandit Motilal Nehru's amendment was, however, carried by 72 votes against 45.

The discussion in the Council of State took place on the 11th and the 12th September. Mr Crerar in moving the resolution referred to the magnitude of the task implicit in what might appear to some a limited or even an unimportant proposition. The contact and ultimately the identification of the political future and destiny of India with the contribution made by British institutions not only to India but to the civilized world, presented, he believed, a problem for which the only parallel in human history was the system of Roman law. In the realm of political institutions the English tradition had taken a place certainly not inferior to the Roman tradition in law and it was with this, in its application to the needs and aspirations of India, that they were now concerned. The enterprise was formidable and would be appalling but for the faith that in the institutions which had been set up in India, if wisely and prudently applied, there was an inherent virtue of adaptation, of development, and of catholicity. Mr. Crerar drew the inference from the amendments on the paper that the leaders of political thought in India had definitely elected and declared that the political progress of India must proceed on and be governed by these principles. In the conditions necessary to regulate further progress he included firstly those which proceeded from the law and the constitution, and secondly, those which independently of all such considerations were necessarily and inevitably inherent in the task itself. The first of these was sufficiently recited in the preamble to the Government of India Act 1919, and contained a doctrine which it was not only impossible in a summary survey, but unnecessary to examine on its warrant in history, in law, or in morals. For responsible political opinion was agreed on this, or at least was prepared to accept it as the basis of all practical discussion. As to the second set of conditions Mr Crerar counselled the full use of all the available resources and the discarding of none till its utility had been fully tried and found wanting. He emphasized the need for patience, prudence and circumspection, and the great need for unity and co-operation. The Resolution affirmed the principle that the Government of India Act is a great measure

of political advance which has yielded most important and valuable results, that its potentialities should be further tried and utilized and that the measures requisite to remove any administrative imperfections experienced in its working could and should be adopted "Continuity and adjustment are," Mr Crerar continued, "if you will examine it, the pith and the marrow of the Majority Report, not as things drawn from an obsolete and stereotyped code, but as the application to a new range of conditions and demands of a tradition which is not only ancient and well-tried, but vital and active, a force which is still the most hopeful and energetic in a world which without it might well be a world of despondence, disillusion and despair" Milton had written, "The immortal garland is to be run for not without dust and heat" Was it unreasonable to ask that those who deemed it to their interest to enter into the new order of things in which unity and co-operation between England and India was essential should also accept the limitations, the discipline and, if necessary, the delays which the British had been compelled to accept by the hard lessons of their own long experience and by the dictates of their convictions? After Mr Crerar had moved the Resolution, Mr Phiroze Sethna moved an amendment identical with that which had been moved in the Assembly by Pandit Motilal Nehru Mr Sethna argued that, if one of the Majority had sided with the Minority, the tables would have been turned and he asked if in that event Government would have pressed the acceptance of such a Majority Report The Indian public and the country, Mr Sethna thought, did not attach the same importance to the Majority as to the Minority Report He said that Government must have a very curious notion of the intelligence of the Indian Legislature and of their sense of responsibility if they expected it to subscribe to an illiberal and unstatesmanlike Resolution which flagrantly, definitely and defiantly ran counter to the wishes of both the Legislature and the public "Here is willingness on the part of that National Party" said Mr Sethna, "which opposed Government at all times, to drop such opposition and to co-operate And, if Government do not choose to accept it, the blame will lie with Government and not with us Until our demand is favourably entertained, it will be the bounden duty of the Indian Legislature and the Indian public to persist in such demand because we regard it as our due and which we ought to obtain as soon as possible" Mr Ramadas Pantulu said that the debate raised three issues, namely, had Britain a Divine, legal or moral right to continue to rule India as a dependency, had the Indians a right to govern themselves, and what was the best and the quickest mode of transference of power from the British to Indians He answered the first issue in the negative and the second in the affirmative and held that, after 150 years of British rule, Indians were poorer, weaker, more disunited and disorganized than they had been before The right to attain self-government having been conceded, they had really entered on the third issue and that was the justification for the amendment Swarajists, Mr Ramadas Pantulu said, were willing to co-operate with Government on honourable terms, but, if their co-operation was thrown to the winds, there would be only one course left open to them, namely, non-co-operation, passive resistance and civil disobedience Sir Deva Prasad Sarvadhikary said that the Commonwealth Bill, as drafted, and the amendments before the House might be a basis of consideration by all who earnestly wanted to apply their minds to the ques-

tions He asked Government not to let "too late" be writ large on their portals and moved the following amendment —

"That in the amendment moved by the Honourable Mr Phiroze C Sethna the following amendments be made, namely

- '1 That for the first paragraph beginning with the words 'this Council recommends' and ending with the words 'and administration of India' the following be substituted, namely
- 'This Council recommends to the Governor General in Council that all necessary steps be taken early to have constituted in consultation with both the Houses of the Central Legislature, a convention or other suitable agency (which shall be representative of both the Houses of the Central Legislature, of the Provincial Legislatures and of all sections of public opinion in India) for the purpose of framing a draft constitution for India on the basis (among other things) of fundamental principles enumerated below and with due regard to the interests of minorities, namely'
- '2 For the last paragraph beginning with the words 'This Council further recommends' and ending with the words 'to be embodied in a Statute,' the following be substituted, namely
- 'This Council further recommends to the Governor General in Council that such constitution when framed and approved of by the Central Legislature should be presented to the British Parliament with a view to being embodied in a Statute
- 'This Council also recommends to the Governor General in Council that without prejudice to the above recommendation and as a tentative measure, effect be given to such recommendations of the Majority Report of the Reforms Inquiry Committee as are consistent with the recommendations of the Minority Report''

In opposing the amendment Sir Alexander Muddiman urged that it was in contravention of the recommendation of the Minority Report. The Home Member referred to the speech of the Secretary of State where he had expressed himself as quite prepared to consider the constitution framed on a different basis from that on which the British Constitution rested and said that he assumed from the amendment that that had been definitely rejected by those who supported it. But advance could only be secured by the good will of the British Parliament and Parliament had laid down that there must be an examination by a Statutory Commission into the working of the present Constitution. The really important matter to the Home Member's mind therefore, was not the particular year when the Commission met but the evidence and facts which could be put before it. The Home Member reminded the House of the Viceroy's observation that in his judgment it would be disastrous to the best interests of India to appoint a Royal Commission immediately. To the inquiry as to whether the date of the Commission could not be advanced, the Home Member said the Secretary of State had given the answer. Endorsing His Excellency the Viceroy's appeal for co-operation, Sir Alexander said co-operation was a course of conduct and not a phrase. "It does not mean that I should stand here and say I am going to do something in the future, it does not mean that you should say you are going to do anything in the future, it means that reasonable men will be able to conclude from facts, from facts and actions, that Government have received that mead of co-operation which the Secretary of State says is essential before there can be any reconsideration of the date of the inquiry." Mr Natesan urged that Dyarchy did not satisfy the requirements of the country, the aims, aspirations and ideals for which Indians were yearning. He appealed for the adoption of some better system more suited to the genius and requirements of the

country His strongest reason for supporting the amendment was the Declaration made in Parliament by the Secretary of State Sriji Chandradhar Barooah also supported the amendment Colonel Nawab Sir Umar Hayat Khan said that they could not take the Reforms by force and reminded them that, when the Reforms were given, the course according to which progress was to be made had also been settled He advised the House to take gratefully what they could get and then to ask for more He opposed the amendment Mr K C Roy said that the amendment was not a business proposition It meant a new Parliament Act and with a strong Tory Government in power in Great Britain it was no use hoping for one He pointed to the great service Lord Reading had rendered to India, he had committed the Baldwin Ministry to the acceptance of the preamble of the Government of India Act and to the statement that there was no bar to the appointment of a Royal Commission before 1929 Rai Bahadur Lala Ram Saran Das said that a system of Government which did not profess to be responsible either to the people of the country or to their representatives marred their progress and hampered their development in many directions Dyarchy was dead and it was no use sticking to it Sir Maneckji Dadabhoy was convinced that those who had moved and supported the amendment had gone off the rails The immediate issue before the House was that certain alterations, which were permissible within the scope, structure and purpose of the Government of India Act and the Majority of the Reforms Inquiry Committee had recommended, should be carried out The considerations which had been urged in support of the amendment were irrelevant to Sir Maneckji's mind and he felt that the amendments could not, in the face of the preamble of the Act of 1919, be constitutionally moved He expressed his grief that the Assembly had spurned the great opportunity which had been given to it by the English people and that co-operation which the Secretary of State had "asked for has been responded to by arraigning the Government of India with a long and formidable catalogue of charges against them, by reciting their sins in the past"

Referring to his visit to England, Sir Maneckji said that the feeling there was very hostile to this country and it would be a very serious mistake for any of the legislators to suppose that by force, by threat or by passing the amendment they were going to gain their object Speaking on behalf of the European community Sir William Currie said that, as business men, they wanted "a stable government, reasonable taxation, no restrictive or racial legislation, and as little State interference as possible" And, if within the next few years they were given proofs of an earnest desire to co-operate and proofs that minority communities and business interests would be protected, the European commercial community would not withhold its support to the goal of Indian political aspirations Mr R P Karandhikar supported the amendment Dr Dwarkanath Mitter wanted to steer a middle course and asked the Government to consider seriously whether a Royal Commission could not be appointed either at once or within a short time Sir Arthur Froom regretted that any Member should have uttered threats and appealed to the House not to throw over the recommendations of the Majority which had been put down after the greatest consideration and thought Major Nawab Muhammad Akbar Khan feared that the impatience of some of them might prove the impatience of a patient to eat everything when digestion in consequence of a prolonged illness was bad Sir Dinshaw Wacha asked the House to remember that the present

was a crucial and critical time when they had to pause, consider and go cautiously. They had not got experience of even 70 months and he advised the House to obey Parliament and have full faith in it that their cherished aspirations would be duly realised in good time. The Honourable Nawab Bahadur Sir Amiruddeen Ahmed Khan agreed with Sir Maneckji Dadabhoy. Sirdar Charanjit Singh supported the Resolution and said that it could not be urged that co-operation had been given on a wide scale. Mr Manmohandas Ramji said that the expenditure of the present government was top-heavy, the needs of the country were not adequately provided for, the provinces were crying for money and the only course left open to the people of the country was to ask for a change in the mode of Government. Sir Deva Prasad Sarvadhikary's amendment was put to the vote and negatived without a division. Mr Sethna's amendment was lost by 29 votes against 10.

When the debate was resumed on the 12th September 1925, Mr K C Roy moved that the following be added to the original Resolution — "and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927." Sirdar Charanjit Singh opposed the amendment, Mr Yamin Khan supported it. Sir Alexander Muddiman said that the date of the Royal Commission was of very little importance compared with what the Royal Commission was going to do when it was appointed. A premature Royal Commission, he thought, would not have results which would appeal to Indian opinion or to those who thought that the best interests of India would be served by an inquiry at the right moment. "Had co-operation been received in other quarters," said the Home Member, "to the extent that it has been received in this House, I have no doubt we should be far further on the road to the desired goal. What is wanted, if I may say so, is not statement, but action, and the test for the acceleration of constitutional progress must be the test of fact and act." Sir Deva Prasad Sarvadhikary did not suggest that they did not want an early Royal Commission but he found it difficult to support Mr Roy's amendment as part of the original proposition. Colonel Sir Umar Hayat Khan asked the House to be cautious and not to accept all the amendments which struck at the root of the main Resolution. Rai Bahadur Lala Ramsaran Das also opposed the amendment. Mr K V Rangaswami Ayyangar said that Government were perfectly aware of their demands, of what India wanted, of what the masses wanted, of what the educated classes wanted, of what the Congress wanted and of what the Council wanted, and he did not think that a Royal Commission could throw any more light on the needs of the country. Mr K C Roy withdrew his amendment. Syed Raza Ali moved the following amendment —

"That the word 'and' after the words 'Reforms Inquiry Committee' be cancelled, the word 'effect' be substituted for the word 'consideration', and at the end of the Resolution the following words be added, namely

'and that he do take into careful consideration the recommendations contained in the Minority Report' "

Mr C. R. S. said that the amendment invited the Government of India to give full effect to the detailed recommendations contained in the Minority Report and to give consideration to the recommendations of the Majority Report. His Excellency the Viceroy had in his address to the Legislature stated the position with regard to the first part of the amendment. With regard to the second part, the Secretary in the Home

Department reminded the House that the main recommendation of the Minority Report was that the Act, as it stood, was radically incapable of working, and that the only remedy was an early or immediate inquiry by a Royal Commission—an issue which had already been rejected by the House. “In view of the considered views”, said Mr Crerar, “laid by Government before the House, and in view of the degree to which they have been endorsed and ratified by the House, could we consistently undertake to take into consideration that part of the proposition?” The Government desired to show the fullest measure of reciprocity to the reason and good-will displayed by the Council, but it was because they could not commit themselves to the full implications of the amendment that Mr Crerar had to oppose it. Mr Khaparde thought that those matters with which the Minority and Majority were agreed should at once be given effect to, that others might be taken into consideration as early as convenient, and that the landed interests, which were very peculiarly represented at present, should, if possible, be better and more adequately represented. He supported Mr Raza Ali’s amendment. Mr Ramadas Pantulu rejoiced that Government had opposed Syed Raza Ali’s amendment and said: “If we are unable to co-operate with you, we are not to blame. We have tried to extend the hand of co-operation to you on honourable terms. But if you say we should co-operate only on your own terms, I think we can do without it.” Sir Alexander Muddiman expressed his amusement at the attitude of Mr Ramadas Pantulu who would have none of the recommendations of the Majority Report and yet jeered at Government and at Syed Raza Ali for putting up motions dealing with them. The Home Member pointed out that Mr Crerar had opposed the amendment only on the ground that it would commit Government to an extent to which Government could not commit themselves. To give effect to the recommendations in terms of the amendment would mean that Government accepted all the recommendations of the Majority Report, which was not the case. By 28 votes to 7 the Council rejected Mr Raza Ali’s amendment and carried the main Resolution.

Two of the recommendations of the majority report of the Reforms Inquiry Committee which had been considered by the Government and with regard to which they were prepared to take action came up before the Legislature in the form of resolutions. On the 9th September 1925 Mr Crerar moved in the Council of State

“That this Council recommends to the Governor General in Council that he do proceed to make the amendments in the electoral rules required to give effect to recommendations Nos 8 and 9 in the majority report of the Reforms Inquiry Committee.”

It amounted to a recommendation that the electoral rule 5 prescribing the qualifications of persons eligible to sit as members of the Council should be amended on the lines of the electoral rule 7 so that in the event of the Council passing a resolution affirming that women ought to be permitted to sit as members of the House and after a similar resolution being passed in the Legislative Council of the province concerned, effect would be given to it in the same manner as it may now be given in the matter of the right to vote.

Mr Ramadas Pantulu moved an amendment adding the following words at the end of the resolution

“ and to remove the sex disqualification in the matter of registration on the electoral roll of persons who are otherwise qualified to vote in the election to the Council of State ”

The President held that the matter could not be brought up in the manner in which Mr Pantulu had brought it up

Sri Deva Prasad Sarvadhikary supported Mr Cierar's resolution, which was carried

On the 17th September the same resolution was moved in the Assembly by Sri Alexander Muddiman. The Home Member pointed out that Madras, Bombay, the United Provinces and Bengal had removed the bar against voting by women and in Burma women had the right to vote. But no resolution had been passed enabling them to stand as candidates. That deficiency the resolution before the House was intended to remove, it would also remove the bar against women being registered as voters for the province of Ajmer-Merwara. Mr Rangaswami Iyengar inquired as to what would be the effect of passing the resolution. The party to which he belonged had long been in favour of women franchise and would have no objection to the principle of the reform, but while he did not specifically oppose the motion he did not, by any means, accede to the proposition that Swarajists were prepared to take steps to give effect to the recommendations of the majority report. Mr B Das welcomed the proposals on the grounds that the laws made by men worked harshly on women and that women in Indian society had equal status with men. Mr Saifiaaz Hussain Khan congratulated the Home Member and supported the resolution. He wanted to move an amendment to the effect that special facilities should be afforded to purdah ladies for recording their votes, but the President held that the amendment was outside the scope of the resolution and ruled it out of order. As an orthodox Hindu Mr M K Acharya supported the motion but he did not like women to be exposed to the hardships of canvassing to which men were subjected. The Home Member in his reply said that it was possible that some members might be considering the question of an election and he made it quite clear that the resolution was merely a recommendation and would therefore not operate till the rules had been amended. The Home Member congratulated Mr Acharya and Mr Rangaswami Iyengar on their ungrudging and enthusiastic welcome of the resolution, and it was adopted without a division.

On the 16th September Mr Cierar moved the following Resolution in the Council of State —

“ That this Council recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows

- (a) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammandan Law shall be appointed,
- (b) appointments to these Committees shall be made by a Committee of Selection the Members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination,
- (c) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of 6 members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House,

- (d) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Council, and 15 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community,
- (e) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 10 Muhammadan Members for the 15 Hindu Members,
- (f) the Members of each Standing Committee shall hold office for one year but may be renominated by the Committee of Selection in successive years,
- (g) a Bill which has been referred to the Standing or a special Select Committee in one House shall not be referred to the Standing Committee or a special Select Committee in the other House,
- (h) as soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House if the Bill is certified by the President to relate to Hindu or Muhammadan Law it shall be referred to the Standing Committee concerned without further motion
- (i) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council
- (j) the further procedure in the Council after the report of the Standing Committee is received shall be the same as the procedure on receipt of the report of a Select Committee "

Mr Creia said that it had been frequently complained by members of nearly every community in India having a special code of religious rites and usages or of social rites and usages that the safeguards provided by the constitution for Standing Committees the safeguards provided by the constitution for premature and ill-considered legislation were in some respects defective. The proposition contained in the Resolution did not offer a complete solution of the difficulty, but it offered a practical means of ensuring that the measure contemplated in it would receive an expert examination by persons who were really qualified to examine and to pronounce upon their merits. It also ensured that all opinions legitimately concerned in these matters would have a full, free and impartial hearing. The procedure, which was borrowed from that of the House of Commons would involve the appointment of a selecting committee who would be charged with the duty of nominating to Committees which would be concerned respectively with Muhammadan and Hindu law, and to these Committees Bills brought in by private members would be referred. Government measures would not come within the operation of these rules, but it did not follow that if a Government measure impinged upon matters of religious or social usage, it would not or could not be referred to a Committee of this kind. In the first instance these proposals were intended to apply to the Indian Legislature and the result of the experiment would determine whether that procedure should or should not be adopted by the provinces. Mr Ramdas Pantulu opposed the motion and urged that it would create communal compartments in the Legislature. He did not wish that the Assembly should forego the advantage of having a Select Committee or a standing Committee of this nature to consider a Bill of considerable importance. He also objected to Government measures being exempt from the operation of the Resolution. Sir Deva Prasad Sarvadhikary thought the Resolution would be helpful in some measure in assuring his co-religionists who had begun to be nervous about the future of their religious rites, ceremonies and convictions, and give them the feeling that an intermediate body consisting of Hindu



or Muhummadans, as the case might be, was likely to be set up and that it would bestow a more considered deliberation than had hitherto been possible upon legislative measures affecting them. Mr G S Khaparde welcomed the proposal and said that the selection committee would be a distinct advantage for the very obvious reason that on it would be a few people who understood the case and they would have the assistance and opinions of others able to help the Committee by putting forward their views and opinions in order to enable the Committee to arrive at right conclusions. He also thought that the discrimination made in favour of Government legislation was justified because Government did not do anything in a hurry and in social legislation they were rather slow to move. He particularly welcomed the provision which would enable the Committee to have a certain number of persons directly concerned with Hindu and Muhummadan law who would sit together, and if they approved of a Bill, there would be something for the Legislature to go upon. Saiyid Raza Ali asked his colleagues to support the Resolution, leaving it open to Government and the Council of State to modify its scope in the light of the experience that might be gathered after it had been in force. The Resolution was agreed to without a division.

On the 17th September the same Resolution was brought up before the Assembly by Sir Alexander Muddiman. Diwan Bahadur Ramchandra Rao moved that the consideration of the Resolution be adjourned to some date during the next session as the matters involved required very careful consideration. He urged that even if the Resolution was carried, effect could not immediately be given to it. Mr M S Aney opposed the motion for adjournment, for which he saw no reason. The question, he said, had been brought up before the Reforms Inquiry Committee, evidence had been given before it, and the Committee had carefully examined the question. The need of a change had been felt for a long time, and Mr Aney thanked the Home Member for having brought up the Resolution, which he felt would remove considerable apprehensions from the minds of the public and assure them that the reforms would not rob the country of its inherent rights, thereby removing the obstacles to further reforms and political upheaval. The Home Member placed himself in the hands of the House and said that he would accept its decision. Mr Ramachandra Rao's amendment was put to the vote and carried.

A Resolution dealing with the reforms was  
 moved by Sir Deva Prasad Sarvadhikary on the  
 15th September 1925 in the following terms —

“This Council recommends to the Governor General in Council that he should consider the desirability of having a report prepared showing the nature and amount of work done by and in the Central Government for five years commencing with 1921 in respect of and connected with subjects ordinarily known as ‘Transferred Subjects’ and also showing the nature and quantum of work under these heads that remains to be done under the Devolution Rules or otherwise.”

Colonel Sir Umar Hayat Khan opposed the Resolution principally on the ground that it was a fit subject for question which would have been easily answered and thus more time would have been available for the discussion of more important subjects. Mr K C Roy wondered why the Resolution had been moved and for what purpose the report for which it asked

would be useful. Mr. Crerar explained the constitutional position and said that it was somewhat doubtful if the mover really intended to embark upon difficult and delicate grounds and dangerous possibilities. He added that he understood that it was not the purpose of Sir Deva Prasad to commit the Government of India to any serious constitutional implications, and in view of this, though Mr. Crerar could not definitely commit the Government to embarking on the preparation of a report, he said that they would give careful and conscientious examination to the whole aspect of the case and would consider whether something on the lines suggested by the mover was practicable. The motion was adopted.

Another resolution bearing on the reforms was moved on the 2nd September 1925 in the Legislative Assembly by Pandit Shamlal Nehru in the following terms and the discussion on it took place on the 16th

“ This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for election to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting.” The mover said that the subject had been referred to the Joint Parliamentary Committee who had considered it for a month and had at last decided to advise the Secretary of State to remove the disqualification against political prisoners. He compared the provision in India with that under the English law and remarked that the Government in this country was very unkind in sending to jail and afterwards disqualifying for election persons who had been honoured for their patriotism. Mr. Nehru referred to the events of 1921 and said that 30,000 persons had voluntarily gone to jail and yet they had committed no offence against any real law. Their offence, if any, was against a lawless law. Whatever justification there might be from the administrative point of view for the attitude the Government had adopted, the speaker thought that as a very loyal subject of His Majesty and of the bureaucracy he must point out that it was not sensible to treat such a large number of men in such an off-hand and callous manner. It was dangerous for Government and its administration. If they wanted co-operation they could get it from men who had been sentenced to long terms of imprisonment for having committed no offence at all. Sir Alexander Muddiman said that as worded, the resolution would not only remove the disqualification but would enable persons in prison to be elected. As originally framed the rules kept out people sentenced to more than six months' imprisonment unless they had been pardoned. On the recommendation of the Government of India this matter had been considered by the Joint Committee on Indian affairs in 1924 and that Committee had not recommended the abolition of all imprisonment as a disqualification, but had only accepted the recommendation of the Government of India to enlarge the period from six months to one year. The Reforms Inquiry Committee had also considered the matter and both the majority and the minority had agreed that six months should be increased to one year. The amendment made by the Government of India under their Notification of July 1925, the Home Member said, had enlarged the period of imprisonment to one year and had left to the discretion of Local Governments as to who should be exempted. Sir Alexander himself would have preferred

some automatic arrangement to the one which had been made under the amended rule. But he found it extremely difficult to insert phrases like moral turpitude in the statute. It was true, the Home Member said, that in England a man who had served his term was exempted. It was also true that the House of Commons had power to expel a member which the Assembly did not possess. But the Home Member denied that in other countries no restrictions of this kind existed. In many countries instead of having an automatic disqualification of the kind they had in India it was left to the discretion of the judge trying a case. Certainly in some continental countries the court in addition to the imprisonment, whatever the term might be, might impose loss of civil rights for life or for a considerable period according to the gravity of the offence. The Home Member did not think that the matter had been dealt with in the way he had referred to in any English speaking country or in any country which drew its institutions from the law of England and he did not suppose that the House would consider that they should move in this direction in revising their system. Sir Alexander referred to the provision in the latest constitution evolved by the British Parliament, namely that of South Africa than which, if anything, the rule in India was a little more favourable. Moreover some disqualification had existed from the time of the old councils and the Home Member strongly denied that it was the intention of the Government by means of this power to get rid of political leaders who had fallen within the clutches of criminal law. The provision was needed for the protection of their own Legislatures and the Home Member could not assent to the proposition that those who broke the laws should decide whether the laws they have broken are valid or not. The restriction was not unreasonable and the Home Member trusted that the Assembly would accept the fact that Government had made a step forward in response to its demands.

Mr M. K. Acharya moved the following amendment —

“That after the words ‘recommends to the Governor General in Council’ the following be inserted

‘with special reference to the repressive policy adopted by Government against non-co-operation during the past five years’ ”

He said that the restriction should be looked at from the point of view of general ethics of punishment and the policy of repression pursued by the Government of India during the last 5 years. The rule which had kept out Mr Gandhi, Mr Acharya said must be got rid of, and to say that one should ask for pardon and then come into the Legislature was adding insult to injury. Mr Acharya thought that it should be left to the electorate as to whom they should send and the executive should not usurp their functions. Mr Sarfaraz Hussain Khan agreed with Pandit Shamlal Nehru in substance but felt that the resolution was vague and incomplete because it would admit into the Legislatures men convicted of robbery, dacoity, etc., which even Mr Gandhi would not like. Mr Rangaswami Iyengar moved the following amendment —

“That at the end of the Resolution the following be added

‘after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned’ ”

The mover claimed that this amendment would remove the difficulty the Home Member had pointed out, namely that of enabling men in prison being elected. The law in England was the same as in all civilised

countries and Mr Rangaswami Iyengar saw no reason why it should be different in India. He urged that it was not right to leave to Local Governments the power to determine what was "moral turpitude" and that this particular power had only been given in pursuance of the Government's policy of repression and of their determination to deny Indians their birth-right. Colonel Craford said that non-official Europeans could not accept the amendment, because they were not in favour of letting in actual criminals. They sympathised with the sentiments underlying the various amendments *viz*, that persons not convicted of moral turpitude or violence should not be disqualified. He asked Government to consider what was possible in this direction and expressed the hope that Local Governments would make special endeavours to remove disqualifications of this nature. Mr Abdul Haye supported the resolution and contended that Government did not try to understand the people but merely tried to govern them and to lord over them. Mr Kazim Ali also supported the resolution and said that because he was a Khilafat worker he had been sentenced to 4 months' imprisonment on a charge that he had taken part in a procession which he had not and of having assaulted persons with lathis, which was an impossibility for one aged 82 years. Sir Henry Stanvon expressed his entire sympathy with the objects of the resolution but regretted that as worded it would admit murders, and others—into the Legislature—a defect which the amendments did not remove. The theory that an offence should not carry two penalties, Sir Henry Stanvon tried to show, had long been exploded in England. The electorate in India was not qualified to keep out undesirables and therefore some disqualification was necessary, but Sir Henry thought that Government should endeavour to devise some rule which while keeping out all bad characters would not keep out over-zealous patriots. Lala Duni Chand supported the resolution and said that the only way to reconcile people to the councils was to remove the disqualification. Prince A. M. M. Akram Hussain Bahadur opposed the resolution and said that they should not encourage people who could not exercise self-restraint to enter the Legislatures. Maulvi Ghulam Bari said that if the country wanted Swaraj it must calmly bear all hardships. Repression on the part of Government was doubly blessed. In the first stage of repression Government might like to impose another test and the country should be prepared to bear it. He advised the mover to withdraw the resolution which, he thought, was improper at the present stage of India's political development. Mr Shamlal Nehru expressed his surprise at the attitude of non-official Europeans who wanted to have different rules for India and for England. He disclaimed that Indian constituencies would return thieves and robbers because, there was no more gentle, sensible and honest person in the world than the Indian villager. Mr Shamlal Nehru inquired if men like Messrs Jawahirlal Nehru, Gandhi, Mahomed Ali, Shaikat Ali and Lajpat Rai were criminals and added that if Government wanted the 30,000 persons who had been convicted in 1921 to co-operate, they must not oppose the resolution the acceptance of which would be some evidence of a change of heart. The Home Member said that the disqualification had not prevented a large number of men who had taken part in political agitation from entering the Legislatures and he had not expected "to be attacked for having taken action in advance of the Reforms Inquiry Committee on a matter which has been debated in this House and elsewhere for some time and in which the action taken is certainly not a step out of the line. He

wishes " The Home Member himself did not regard the present arrangement as satisfactory, but he claimed that similar provisions existed in other countries. In most countries it was felt that those who broke the law were not fit to make it. Sir Alexander recognised the desirability of bringing in those who were willing to co-operate in a constitutional manner, but he did not think that the rule, as it now stood, was unreasonable. "It is also admitted that it is difficult to give that discretion in any other way, and therefore I am compelled to oppose the very wide and sweeping resolution."

Mr Rangaswami Iyenger's amendment was carried and Mr M K Acharya withdrew his amendment. The resolution as amended was carried by 48 votes against 47 in the following terms —

"This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for elections to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned."

It will perhaps be convenient here before passing on to other topics, to mention a resolution which though not directly connected with reforms was of some administrative importance. During the Delhi Session Mr M S Aney had on the 23rd

Transfer of Sylhet and Cachar

January 1925 moved a resolution recommending that early steps be taken to give effect to the resolution of the Assam Legislative Council recommending the re-transfer of Sylhet and Cachar to Bengal. On the 2nd September 1925 further discussion of this resolution was to have been resumed. Sir Alexander Muddiman stated that he had been in consultation with members who were particularly interested in the subject and had informed them of the present stage of the correspondence and of the question so far as it rested with the Local Governments. These members had agreed with the Home Member that further discussion at the present stage could only be sterile. The Home Member proposed to circulate to all members of the House the correspondence which had taken place and he suggested that the resolution before the House might be withdrawn and that they should discuss the matter on a further resolution next Session when they would be in a position to deal in a more satisfactory way with the matter.

Mr Aney had no objection to accepting the course and the resolution was withdrawn.

The Legislature maintained its interest in the extent to which Indians are employed in offices under the State and the question of the Indianisation of the staff of the High Commissioner's office was raised in the Council of State on the 8th September 1925 by Mr Phiroze Sethna in the following resolution —

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom."

Mr Sethna said that he gathered from the replies to questions he had received from Government that the cost of the High Commissioner's office and establishment for 1922-23 was £166,400 and that on the 30th September 1923 there were 248 persons in the permanent staff and 319 persons on the temporary staff. At the present time,

Indianization of the staff of the High Commissioner

exclusive of warehousemen, messengers, packers, etc., there was a total of 365 persons in the High Commissioner's office. Out of these 245 had been transferred from the office of the Secretary of State for India and 120 new appointments had been made. The total number of Indians out of 365 was only 23 and of these 23, 5 were amongst those who had been transferred from the office of the Secretary of State, so that out of the 120 new appointments only 18 had gone to Indians. Indians thus formed only six per cent of the number of employees but the total salary drawn by them was much less than six per cent of the total charges as the majority of them were filling minor positions. Mr Sethna said that the High Commissioner's office was essentially an Indian Department, its cost was borne by India and yet a large part of its expenses were outside the vote of the Assembly. The manner in which only 18 appointments out of 120 have been given to Indians, Mr Sethna regarded, was "one more illustration of sacrificing the interests of the Indian to those of the Britisher." The present percentage was very low and constituted a very serious injustice, specially when the offices of the other High Commissioners had imported from their self-governing Colonies or Dominions the majority of their men in the higher positions. He asked Government to lay down a rule that henceforward any future vacancy would be filled, as far as possible by suitable Indians, whether they were employed permanently in London or whether transferred for a period of three years from India. Mr Chadwick said that the 120 new appointments were new only in the sense that they had for the first time come on the High Commissioner's establishment. To a large extent they were really transfers, as a result of extra work taken over by the High Commissioner in connection with accounts, income tax and in connection with the conversion of the East Indian and Great Indian Peninsula Railways into State Railways and the closing down of the offices of those companies. It could not be suggested, Mr Chadwick said, that the whole of the staff which was employed in those offices and was accustomed to railway work should have at once been dismissed and their places filled by Indians. Sir Atul Chatterjee a few weeks ago had given his staff as 368, of which 30 were Indians, i.e., 8 or 9 per cent. Inquiries had also been made from other High Commissioners and Mr Chadwick was able to state that in the offices of Australia, there were 18 Australians out of a total of 196, that is, 10 per cent, of South Africa 14 were born in South Africa out of a total of 128, that is, 11 per cent, of New Zealand 16 were born in New Zealand out of a total staff of 119, that is, 13 per cent, and in the office for Ireland, the senior men were from Ireland and the whole of the clerical staff was from London. Thus specially considering the short time that the High Commissioner's office for India had been open the percentage of Indians employed in that office compared not unfavourably with the corresponding positions in other High Commissioner's offices. Moreover 210 out of the 368 appointments were on grades of pay of which the maximum did not exceed £250 a year, another 128 were on grades of pay whose maximum was Rs 444 a month. These were mostly routine clerks and rose to the maximum after 15 years or in some cases 20 years' service and started on the equivalent of Rs 66 a month. "We are not going to get men to go from India to London," said Mr Chadwick "to do that kind of work on anything like that figure." With education far more widely diffused in England than it was in India the pay of men of equal educational qualifications was on the whole lower in England than in India. After showing that the starting salaries of

some of the clerical appointments under the Government of India were as high as the final salaries for the corresponding work in the High Commissioner's office Mr Chadwick said "Is it more businesslike to engage men locally or to send them over from here where they can get starting pay higher than the maximum pay in the High Commissioner's office?" Coming to the 30 posts which carried more than Rs 555 a month, Mr Chadwick said that six of them reached Rs 1,100 a month and were held by very senior men who had come over from the India office and it had not been urged that these men were to be dispossessed. Most of the vacancies must be in the lower grades and Mr Chadwick said that in spite of this there was an Indian to be found in every grade and not only on the lowest grades. As vacancies occurred in the higher grades, they were brought in. Six posts carried more than Rs 1,111 a month and three of their incumbents had at one time been Indians and two of them had been perpetually filled by men with Indian experience. Mr Chadwick did not think that it could be urged that the permanent staff that had been taken over had been unduly favoured for the higher posts. Proceeding Mr Chadwick observed that Sir Atul Chatterjee had during the last 12 months recruited 12 Indians of whom 3 had since resigned, and it was important to remember that continuity of service in the office was necessary. The principle, however, which Sir Atul Chatterjee followed was "Indian candidates considered to be qualified and suitable are appointed, whenever possible to vacancies on the establishment" and Mr Chadwick hoped that the Council would endorse that principle. Mr Chadwick wished to get in Indians in the High Commissioner's office and to have that office closely linked with India, but he could not agree that it was in the interests of India either financially or for their reputation in London to endeavour to convert the High Commissioner's office into an Indian colony in London by laying down a rule as Mr Sethna desired, that to every post which fell vacant in future or was hereafter created only an Indian should be appointed.

Sir Maneckji Dadabhoj moved the following amendment —

"That after the word 'taken' in the first line the following words be inserted 'as far as compatible with economy and efficiency',

and in the second line, for the word 'staff' the words 'higher staff' be substituted"

He said that the amendment would be consistent with the policy of the Government as enunciated by Mr Chadwick. Mr K C Roy supported the amendment. Mr Ramadas Pantulu wanted to move the following amendment

"To add at the end of the Resolution, the words, 'as much and as quickly as possible'."

The Resolution will then read —

"This Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom *as much and as quickly as possible*"

Mr Sethna did not favour Sir Maneckji's amendment. Mr Chadwick said that they must not do damage to or hurt those who were already in the office of the High Commissioner, and added that subject to that reservation he was prepared to accept Sir Maneckji's amendment. Mr Manmohandas Ramji and Mr K V Rangaswami Rangar supported Mr Sethna's Resolution. Sir Dinshaw Wacha pointed out that Government had so far loyally accepted the wishes of

the House and had appointed an Indian High Commissioner Sir Atul Chatterjee should be asked to make a report which should be laid before the House so that they might carefully consider and arrive at a just decision on it Mr R P Karandhikar opposed Sir Maneckji's amendment, and Sir William Currie supported it Mr Sethna in the course of his reply said that, as amended, the Resolution would give Government an opportunity always of taking shelter under the words "as far as compatible with economy and efficiency" The Resolution as amended was adopted without a division in the following form —

"This Council recommends to the Governor General in Council that steps be taken, *as far as is compatible with economy and efficiency*, to Indianize the *higher* staff and establishment of the High Commissioner for India in the United Kingdom"

Another important Resolution dealing with Indianization was moved, in the absence of Hajī Ismail Khan who had drawn the ballot for it, Recruitment to I M S in the Assembly by Mr Lohokare in the following terms —

"This Assembly recommends to the Governor General in Council that he be pleased to take immediate steps to arrange that all further recruitments to the Indian Medical Service—India Army Medical Cadre—shall henceforth be only by an open competitive examination held simultaneously in England and India from the year 1926"

The mover referred to the recommendations of the Lee Commission and to the debate which had taken place in the Assembly in September 1914 and regretted that the Secretary of State had not yet passed any definite orders Mr Lohokare demanded equal opportunities for Europeans and Indians and desired that the best doctors available should be recruited Past experience, he said, had raised doubts as to whether Indian interests would be safeguarded, and he condemned the present system of recruitment by nomination Dealing with the history of the recruitment of Indians to the Indian Medical Service, Mr Lohokare remarked that up to 1900 very few Indians had been taken, between 1900 and 1910 a few had been taken, between 1910 and 1914 a number of Indians had got in through the competitive examination, and he argued that that was responsible for the discontinuance of the competitive examination He deprecated racial discrimination and saw no reason why Indian doctors were debarred from treating Indian soldiers Mr Lohokare complained that only a few of the Indians who had been given temporary commissions had been made permanent, and that Indian officers in the service were very badly treated He did not mind Government recruiting a separate European service for Europeans and imposing the highest standard for the purpose, but he protested against the continuance of a system which would shut the door against the best talent in the country by admitting men through the back door Mr Burdon remarked that a great deal of the mover's speech was irrelevant with which he did not propose to deal He made a statement of the position of Government and hoped that it would limit the discussion to relevant channels and lead to an elucidation of the position The position of Government, Mr Burdon said, was that they did not wish to oppose the Resolution if their opposition was to be construed as a final expression of their opinion in regard to the method of recruitment to be adopted for the I M S as it was to be constituted in the future On the other hand, it was impracticable for them to accept the Resolution, for neither Government nor the House possessed the data on which alone a final conclusion could properly be based. Dealing with the



recommendations of the Lee Commission, Mr Burdon said that the Government of India and the Secretary of State had approved in general the principle of the constitution of a Provincial Medical Service and decided against a unified military service which was in accordance with the wishes of the Assembly as expressed in September 1914. Very important questions were still outstanding which had an important bearing on the recruitment for the I M S, *e g*, they did not know the strength of the war reserve, the status, pay, etc., of the appointments which would be filled by officers lent to the civil side. Mr Burdon thought that it would be a reversal of the natural order of things to decide upon the avenues of recruitment before the essential terms and conditions of service had been ascertained. Simultaneous examinations would depend upon the composition of the service, which was at present unknown. Government did not pronounce against it now and had never done so. At the proper time the subject would receive their very careful attention, and the views of the Assembly would receive the greatest consideration, but for the present Government must maintain an open mind. Proceeding, the Secretary in the Army Department dealt with the history of Indian recruitment and showed that owing to the absence of suitable candidates during the war, the competitive examination for the I M S had had to be abandoned, and the same influence had continued with the added uncertainty as to the future of the service. He discussed the present system of nomination by the Selection Board in India and in England and said that as soon as conditions permitted it, they would like to revert to the most suitable avenue of recruitment, namely, competitive examination. In regard to the position of Indians in the I M S, Mr Burdon said that under the system of nomination 133 permanent commissions had been granted to Europeans and 119 to Indians. In military employment at the present moment they had 195 British and 79 Indian regular officers. In addition, they had 149 temporary officers, of whom 146 were Indians. "I think it will be admitted," said Mr Burdon, "that India can find little to complain of in the very significant figures which I have given, and I must add that I repudiate, as strongly as I possibly can, the suggestion that any of the Indian officers or that the Indian officers as a class who were recruited under the system of nomination and are now serving under His Excellency the Commander-in-Chief have proved to be inefficient or unsatisfactory." Mr Burdon doubted whether simultaneous examination which had been applied to the civil service would suit the I M S, and in this connection he referred to the difference between the standards in England and in India as disclosed by the number of Indian students who went to England to study medicine. The standards to be applied in both countries would have to be considered because the existence of two standards would prejudice the solidarity of the service and affect its credit. Mr Burdon referred to some other difficulties in detail and asked the House not to minimise them. Sir Sivaswamy Aiyer said that he was glad that Government did not oppose the Resolution and he expressed his satisfaction with the full and frank statement Mr Burdon had made. He regarded the proposal under the Resolution as very modest and reasonable and urged that so long as the I M S continued, Indians should be as much eligible as Englishmen. He expressed the hope that Government would recommend a liberal percentage of recruitment in India, and though he recognized that there were difficulties in the simultaneous examination, he did not regard them as insuperable. Colonel Needham

saw no particular reason to object to the first part of the Resolution because recruitment by competitive examination was merely in abeyance till settled conditions had been restored. He strongly defended the system of nomination and said that no complaints had been made against it. The second part of the Resolution, Colonel Needham thought, introduced a new feature so far as admission to the service which demanded a practical examination was concerned. Two sets of examiners would be required to conduct the *vivâ voce* examination and it was a very difficult matter to assess marks. He inquired how the actual merit of each candidate could be determined if two different sets of examiners conducted the *vivâ voce* examination. Moreover, he said, Indian medical officers desired only one portal of entrance and separate examinations might give rise to a feeling that European and Indian candidates were not on an equal footing—a feeling which would be most undesirable. Dr Datta in supporting the amendment went through the history of the recruitment to the I M S and through the recommendations of the Verney-Lovett Committee, the Esher Committee and the Lee Commission. He regretted that no definite orders had been passed because, he said, of the attitude of the British Medical Association, which was a strong trade union. Dr Datta inquired as to what was the policy with regard to the I M S and urged on the Government of India and the Secretary of State the need for an early announcement. To meet Colonel Needham's objection, he suggested that an examination might be held in England and another, six months later, in India. Mr Rangachariar inquired why the Secretary of State was not coming to a decision, why the practical examination for the I M S could not be held when practical examinations in science were held for I C S candidates in India, and finally whether the difficulties could not be solved. Dr Lohokare asked the Government to come to terms with non-officials and not to follow a system which took Europeans and excluded the better qualified Indians. Mr Burdon in his reply repeated the statement he had made on behalf of Government. Answering Mr Rangachariar's inquiries, Mr Burdon said that the proposals had not been very long before the Secretary of State and denied that there was any simultaneous examination of a practical character in force in regard to the other services which could in any sense be comparable with the practical examination for the I M S. He promised to bring the report of the debate prominently to the notice of the Secretary of State. The motion was put to the vote and carried by 56 votes against 42.

The larger questions mentioned above did not exclude the consideration of what might be regarded as matters of lesser importance on the ground that they only related to particular departments or services. On the 1st September

Grievances of Post Masters

Srijut Chandradhar Barua moved a Resolution in the Council of State asking for a committee consisting of officials and non-officials of both Houses of the Legislature and a representative of postmasters to inquire into the grievances of postmasters including those in the grade of Rs 145—170 in India and Burma, regarding their pay, status, etc., and to suggest means as to how to improve them. Mr Khapaide supported the Resolution. Mr Parsons referred to the Resolution of a wider scope but embracing all the points contained in Mr Barua's motion which had come up in the Assembly in February last and the discussion on which had been adjourned on the understanding that the Member for Industries

and Labour and the Director General Posts and Telegraphs would receive a deputation thoroughly representative of the employees of the Post Office and go into all their grievances. The deputation had since been received and had expressed its thanks for the patient hearing the Member for Industries and Labour and the Director General had given it. Mr Parsons added that a good many of the grievances had already been examined, and it was no exaggeration to say that almost every day he was considering one or other of the questions involved. While these grievances were being investigated with all the expedition possible by the responsible Department and by the Member in charge of it, Mr Parsons was not in a position to discuss the individual cases which had been mentioned by Mr Barua. Mr Parsons was prepared to give an assurance that every thing which Mr Barua had said would be gone through extremely carefully and that they would examine departmentally the grievances that he might have put forward in exactly the same way as the grievances represented by the deputation were being examined. He advised the mover to withdraw the Resolution and expressed the hope that the House would not be asked to vote on the Resolution while Government were actually engaged in examining as sympathetically as possible the various questions it raised. Sir Deva Prasad Sarvadhikary supported Mr Parsons's plea, and Mr Barua, after expressing his thanks to Government, asked for leave to withdraw the Resolution. The Resolution was withdrawn. Even the pieceworkers in the Government of India Presses came under the notice of the Council of State. On the 25th August Mr Khaparde moved a Resolution asking for a committee of

Pieceworkers in Gov-  
ernment Presses

official and non-official Members of both Houses of the Indian Legislature to determine the effect of the changes which had been introduced in consequence of the Report of the Committee appointed in 1921 in the interests of the pieceworkers in the Government of India Presses. Mr Parsons went through the various recommendations which that Committee had made and showed what changes had been introduced and what their effect had been. He claimed that Government had done all that they should have done for the pieceworkers. As the Committee of 1921 had found, there had been an almost invariable decrease in the actual hours of work and an invariable increase in the average earnings of each class, and that being the case, there was no ground for holding the inquiry. Mr Parsons had made such inquiries as he could and had been assured that the men were contented. Mr Karandhikar supported the Resolution. When put to the vote, the Resolution was lost by 21 votes against 17.

The position of Indians abroad in which the Indian Legislature has always taken a considerable interest did not go unnoticed during the last session. Reference has been made to the Indians in South Africa in a manner in which it had formed the subject of interpellations and on one occasion on a private question by Mr Jinnah on the position of Indians in South Africa a series of supplementaries were put which, with the answers given, occupy nearly seven pages of the printed proceedings. On the 10th September 1925 the matter was raised in the Council of State in a Resolution moved by Sir Deva prasad Sarvadhikary in the following terms —

“This Council recommends to the Governor General in Council that in connection with the recent *anti-Indian* legislation and with the Bill now impending

before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa."

The speaker said that those who knew anything of the situation must accord their gratitude to all the Viceroys from Lord Hardinge downwards, including Lord Reading, everyone of whom had done all that lay in his power to advance the cause of Indians in South Africa and, as far as possible, to protect them. Sir Deva Prasad said that he wanted to strengthen the hands of the Government of India in a way that it would induce the Colonial Office and the Cabinet to afford them the assistance and support to which they were entitled. He referred to the Bill which had been recently introduced in South Africa to make provision for the reservation of residential and trading areas in urban areas for certain persons having a racial characteristic in common. He said that that Bill aimed at reducing the Indian population in South Africa to an irreducible minimum. The Indian population there was nearly a lakh and three quarters, of whom more than 60 per cent had been born in South Africa and their ancestors had not gone there voluntarily but had started as indentured labourers and had manured the soil with the dust of their bones. The door for negotiations and representations being still open, Sir Deva Prasad thought, the Council ought to do all it could to assist the Government and strengthen their hands in their endeavour to bring about a better state of things which, it was believed, would be possible in the not unlikely event of a change in the Government of South Africa. The Indian population being what it was could not be a menace to the South African people and it was impossible to believe that such an opportunity as Indians had they would utilize in any manner prejudicial to the interests of the South Africans. The exclusion of Indians could not be justified on political, social or even economic grounds and Sir Deva Prasad saw no reason for the attitude the South African Government was taking up. Mr Natesan, in supporting the motion, remarked that after the Class Areas Bill, on which a Resolution was moved in the Council of State in March 1924, had been dropped, they were faced with a Bill of a similar character but with more drastic provisions. The immediate effect of this Bill would be that it would provide for allocating residential and trading areas within which only Indians might buy and lease property. In rural districts Indians would be confined to 30 miles from the coast line wherein the areas might be defined. The result would be that thousands of Indian business firms must cease on the expiry of the present leases. It would be compulsory segregation and deliberate deprivation of Indians' property with the ultimate aim, it was apparent, of repatriation with confiscation. The right of *bona fide* Indians to enter the Union would be seriously jeopardised and many provisions in the Bill would enable Indians to be declared prohibited immigrants. The rights of domicile would be practically forfeited and the wives and children of domiciled Indians would not be able to enter the Union after 5 years from August 1925. "A South African born Indian domiciled in one province must return to the province of his birth and there also into segregated areas. Indians born here could also be declared prohibited immigrants unsuitable to the requirements of the Union. Such prohibited Indians will lose all property and vested rights in the Union and be driven away." Mr Natesan asserted, that "The Bill was a direct violation of the Smuts-Gandhi agreement under which Mr Gandhi on behalf of the Indians had agreed to give up the right of unrestricted immigration on the understanding

that the rights of the people already there should not be interfered with and no legislation, in any way calculated to take away the rights of the people there, should be undertaken " Mr Natesan strongly opposed the idea of repatriation and said that it would be suicidal to the best interests of the people if they were light-heartedly to talk of their repatriation to India. As for retaliation, no responsible Indian politician could talk of it without making a very careful examination of all the facts of the case. The speaker appealed to the Government of India to give all possible facilities to the Indian deputation which might shortly come over to India, as from that body Government could ascertain what exactly was the situation in South Africa. He further asked the Government if they could depute some persons from India, official or non-official, to see whether they could not persuade the Union Government to hear their case. Mr R P Karandhikar moved the following amendment —

" With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provision) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges "

Colonel Nawab Sir Umar Hayat Khan said that whenever a Resolution of this kind had been brought forward Government had expressed their readiness to do what they could. But what could the Government do? And, if they had not been able to do much hitherto, he saw no prospect of their doing more in the future. He supported the idea of repatriation. Mr Ramadas Pantulu wished to add the following words to Sir Deva Prasad Sarvadhikary's Resolution — " and to ascertain the condition and the views of the Indians in South Africa " Mr K C Roy said that Mr Amery had not repudiated Mr Thomas's suggestion for a Round Table Conference and he assumed that the British Government was committed to the idea of having such a Conference in order to safeguard and protect the interests of Indians in South Africa. Mr Roy said that this was a clear case for intervention and it was time that His Majesty's Government should seriously take into consideration the grievances of Indians in South Africa. He supported the demand for a Round Table Conference. Mian Sir Fazl-i-Husain, speaking on behalf of Government, said " Well, Sir, it is no use pretending that with a little ingenuity it is possible to solve this extremely difficult problem. And when one sees measure after measure adopted to the prejudice of the Indians in South Africa, in spite of the efforts that the Government of India have been able to put forward on their behalf, I venture to think that there is justification for Indians in India and Indians in South Africa to feel that the problem is altogether hopeless. And yet the proverbial patience of the Orient ought to come to our aid. There are not many rays of hope, but there are still, I feel a few faint ones " The Member for Education, Health and Lands remarked that it did credit to India's cause in this struggle that all Indians, including Europeans in India, were united in the matter, it had been conclusively established how well His Excellency the Viceroy had appreciated the Indian point of view and the Imperial point of view in the struggle and the Government of India had definitely adopted a very clear and simple policy. " There is nothing that an Indian publicist could suggest for the benefit of Indians in South Africa," said Sir Fazl-i-Husain, " that the Government of India are not prepared to do, provided it is

within their competence to do it" Dealing with Mr Kaiandhikar's amendment, Sir Fazl-i-Husain said that the Government had already taken steps to have the provisions of the Bill scrutinised and had informed the South African Government that a detailed representation on the objectionable items in the Bill would be submitted to them. The Government of India had already intimated to the President of the Indian Congress that if their deputation materialised they would be very pleased to see it. The Government were also contemplating what further steps could be taken to ascertain the condition and the views of the Indians in South Africa, to find out the conditions under which they were living and to study the position with a view to rendering assistance to them and to the Government under which they were living. Nothing that could be done to help the cause of Indians in South Africa would be left undone. Both Mr Kaiandhikar's and Mr Ramadas Pantulu's amendments were accepted and the Resolution, as amended, was adopted in the following form —

"This Council recommends to the Governor General in Council that in connection with the recent *anti-Indian* legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa. *With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provisions) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges and to ascertain the condition and the views of the Indians in South Africa*"

The interest which the Indian Legislature takes in the moral and material welfare of the people was continued. The former manifested itself in two Resolutions, one moved in the Council of State regarding the restriction of opium cultivation and the other in the Assembly on the prohibition of import, manufacture and sale of liquor. The latter, as will be noticed later, was responsible for a number of Resolutions dealing with some of the industries and the forms in which they can be helped forward. Whatever the reason—the association of a large number of prominent business men with the present Assembly, a greater realization of the needs of the country, or the growing recognition of the importance of industries, the fact remains that industrial subjects are beginning to loom larger and larger in the discussions of the Central Legislature. Taking first the moral welfare of the people, mention might be made here of the two Resolutions which fall under this head. On the 1st September 1925 Sir Deva Prasad Saivadhikary moved the following Resolution in the Council of State

"This Council recommends to the Governor General in Council that—

- (i) the area for cultivation of opium be restricted and brought under stricter control, and
- (ii) the practice of making advances to opium cultivators be discontinued with effect from the next season for making advances and that this be notified in advance as soon as possible"

He recognized that Government had been studiously helpful in meeting the growing point of view of those who thought that the opium policy of the Government of India must undergo a change in line with growing public opinion and International demands. Recent telegrams from Geneva, Sir Deva Prasad acknowledged, showed that the claim put for-

Restriction of Cultivation of opium.

ward on behalf of Government in this respect had been conceded by representative Internationals, although doubt still continued to exist as to whether the quantity of production could not profitably be reduced and whether serious and material reduction could not be effected. Mr Yamin Khan opposed the Resolution, he considered the first part as superfluous because the area under cultivation was already under control, and the other portion of the Resolution, if given effect to, would absolutely abolish the cultivation. Mr A C McWatters said that the Resolution divided itself into three parts, namely, the restriction of the area of cultivation, increased control and the discontinuance of the system of making advances. As regards the first, Government had had to take into account not only the probable reduction of their export trade and the progressive reduction of internal consumption but also the question of their stocks. Seven years ago in the United Provinces, which was practically the only important area in British India where opium was cultivated, the area under cultivation exceeded 200,000 acres. In 1922-23 that area had been reduced to 141,000 acres, in 1923-24 to 134,000 acres, in the current year to 116,000 acres, and in 1925-26 it had been arranged to cultivate only 74,000 acres. Thus, in seven years the area had been reduced to a little over one-third. The Secretary in the Finance Department said that it was the result not only of Government's policy but of the fact that in the last two years they had had an exceptionally large outturn in the opium fields. Moreover, out of 37 divisions or subdivisions in the United Provinces 9 had already been abolished and it was contemplated to close down several more in the near future with the sole object of getting the cultivation more concentrated and more under Government's control. With regard to the small areas in the Punjab, the Local Government was considering the question of further restrictions and control. As regards the price paid to the cultivator, it had been reduced last year from Rs 15 to Rs 13 and further reduction was contemplated. There was another area from which considerable supplies were obtained, namely, the Malwa States, and Government had carefully reconsidered their engagements with the Indian States concerned and had been able to reduce the amount for which they had contracted from 11,400 maunds in the current year to 6,500 maunds for the next year. So far as consumption in India was concerned, the Central Government had no financial interest in the opium supplied to the provinces and Mr McWatters took the view that the proper line of action was for them to co-operate with Local Governments in putting down abuses of opium and Government had been pursuing that policy in consultation with Local Governments. In the matter of exports, substantial financial sacrifices had been made and the average annual income of the Central Government from opium, which was over 8 crores of rupees in the three years before 1913, had, according to the preliminary actuals of last year, fallen to 1 crore and 42 lakhs. Before pushing those sacrifices further Government were entitled to endeavour to ensure that their efforts were not wasted and that the policy adopted was one which really brought to an end any abuses of opium eating or smoking that might exist and not merely result in the opium from India being replaced by opium from other countries. Government had for some years past adopted a system of allowing export only under the certificate system, they either sold opium to foreign Governments under different agreements or allowed export on a certificate. It might have been a possible line to stop there and say that the importing country was responsible, but Government had

gone further in two instances, namely, Macao and Persia. They had themselves taken the initiative and stopped export although opium was desired by those countries. "They are anxious to show to the world," said Mr. McWatters, "that they are prepared to fulfil their obligations in the spirit and not merely in letter. Therefore, I have the full authority of Government to tell the House that the Government of India are now prepared to accept some measure of responsibility even for licit exports covered by certificates. That is to say, they are prepared to prohibit or restrict export even where foreign Governments are prepared to furnish a certificate, if there is evidence that the opium is finding its way into the illicit trade." On the question of control Mr. McWatters quoted Miss Helen de la Motte who had said that "every step relating to the control and output was carefully and systematically regulated and had been brought to the highest pitch of efficiency, a model and example to the rest of the world." After detailing the various stages of control and mentioning how the restrictions had been made more and more stringent, Mr. McWatters said that at Geneva they had recently agreed that they would allow an independent committee of the League of Nations to visit India, as it would visit other signatory countries, after 5 years, in order to examine their system of control and to assure themselves that it was absolutely watertight. The advances to cultivators had come down from the days of the Mughal Emperors and even prior to 1764 references to them were to be found. The Secretary in the Finance Department claimed that it was especially suitable where there was a crop which required more than the usual amount of preparation of the soil and where there was a single purchaser who required an assured outturn. The system of advances had been resorted to for such crops as opium, sugar and indigo. It ensued Government having a much closer control over the area cultivated and it kept the cultivator out of the hands of the money-lenders. The only result of the abolition of the advances would be that Government would have to offer a higher price and would be paying a portion of the money-lender's profits, which would be a retrograde step. He advised the mover not to press the Resolution. Dr. Dwarkanath Mitter was prepared to support the first part of the Resolution but with regard to the second he felt some difficulty because the practice had been in existence from very ancient times. Mr. K. C. Roy moved the adjournment of the debate on the Resolution till the next cold weather session. Sir Maneckji Dadabhoy said that Mr. McWatters had so graphically and clearly explained the policy of the Government of India and had given such convincing reasons why the advances had been made that he considered the Resolution entirely unnecessary and thought that no useful purpose would be served by adopting the course suggested in Mr. K. C. Roy's amendment. Major Nawab Mohamed Akbar Khan also advised the mover to withdraw his Resolution and to do something in the way of starting an anti-opium campaign. Sriyut Chandradhar Borooah supported Sir Deva Prasad Sarvadhikary's Resolution. Sir Dinshaw Wacha advised the House to rely on the assurance given by the Secretary in the Finance Department that the Government would steadily pursue the policy. He objected to the debate being unnecessarily prolonged and hoped that Sir Deva Prasad Sarvadhikary would withdraw the Resolution. Sir Deva Prasad withdrew the second part of his Resolution but pressed the first to a division. It was, however, lost by 29 votes against 11.



On the 2nd September 1925 further discussion on the following resolution of Hajī Wajihuddin which had been moved in the Legislative Assembly on the 5th February 1925 was resumed

"This Assembly recommends to the Governor General in Council that legislation be undertaken prohibiting the import, manufacture, sale and use of all sorts of liquors in India and in the meantime he be pleased to direct the local administrations under his control and convey the opinion of this Assembly to all other Provincial Governments that they should take steps forthwith to grant to the local bodies within their jurisdiction the right to determine the number and location of liquor shops within their respective areas"

Maulvi Muhammad Yakub in supporting the resolution said that apart from religious sentiment, the amelioration and betterment of the conditions of the people of the country demanded that legislation indicated in the resolution should, as soon as possible, be undertaken. Since the resolution was moved in February many communications in its support had been received, no less than a hundred Indian vernacular newspapers had approved of it and many associations in different parts of India had passed resolutions supporting it

Dr S K Datta moved the following amendment —

"That for the original Resolution the following be substituted

'This Assembly recommends to the Governor General in Council that he be pleased to accept as the policy of the Government the ultimate prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first steps in carrying out this policy (a) that the import of spirituous liquors into India be more rigidly controlled, (b) that Provincial Governments be urged to undertake legislation whereby the control of the sale of spirituous liquors will be vested in Local Bodies, Licensing Boards elected on a popular franchise or be regulated by a system of local option wherever possible' "

He was for going slow and not for total immediate prohibition. He did not believe that there was any case on either religious or the highest ethical grounds and he limited his plea to medical and economic considerations. The use of alcohol in small quantities led to the reduction of skill and larger quantities were definitely injurious resulting in insanity and criminality. The revenue from alcohol and drugs in India, Dr Datta remarked, was one of the principal heads of revenue of the Government and stood between one-seventh and one-eighth of the total revenue. He believed that a policy of restriction would result in freeing an enormous amount of the population from taxation from which they got nothing in return. Liquor interests in the United Kingdom and America had been among the most harmful, over and over again reform had been blocked by the action of the liquor interest, and Dr Datta desired that before these interests became established in this country they should bring them absolutely under control. Prohibition had not come in a day but it had been established in America, and other countries, of which New Zealand was the latest example, were working towards it. In Australia the tendency was towards prohibition. But prohibition of alcoholic liquor could not be had in any country without first controlling the traffic in drugs. Dr Datta added that though there had been a reduction under beers and ale and wines, spirits showed a tendency to rise and the imports had risen from 1,665,000 gallons in 1914 to 1,666,000 gallons in 1923-24. Ultimate prohibition was the goal towards which Dr Datta aimed but he felt that they ought to go slowly feeling every step as they went along that path

Mr N C Kelkar moved the following amendment —

“ That for the original Resolution the following be substituted

‘ This Assembly recommends to the Governor General in Council that he be pleased to accept as the ultimate policy of the Government the prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first step in carrying out this policy the Provincial Governments be directed immediately (i) to inaugurate a policy of vesting the power of fixing, by a system of local option, the location and number of shops selling intoxicating liquors in either local self-governing bodies or licensing Boards specially constituted for the purpose and elected on a popular franchise, and (ii) to undertake necessary legislation in furtherance of that policy ’ ”

He thought that the original resolution was defective inasmuch as it did not refer to medicinal needs. Temperance was not moderation but tee-totalism. Local option was no tyranny but would save the majority from the minority. Mr Kelkar urged that if Government could trust voters with responsible government, he saw no reason why they should not trust them with the liberty to determine the location of liquor shops. Colonel Crawford emphasised the fact that both European and Indian members had the same motive at heart. He considered it an exaggeration to say that liquor led to crime. Taken in moderation it was harmless and in some cases even beneficial. Their object, Colonel Crawford thought, should be to limit the evil arising from the immoderate use of alcohol, but prohibition would be perfectly useless in this direction, because it would lead to illicit traffic, to the use of dangerous drugs, to contempt of authority and to the tyranny of the petty official over individuals. The proper policy should be one of control. If it was argued that prohibition led to economic efficiency, Col Crawford inquired if anyone could claim that the nations which were prohibited by their religion from the use of alcohol showed greater efficiency than those whose religion did not. If prohibition was wrong, local option was also wrong. Government had no moral right to interfere with the individual in such matters. Mr Jamnadas Mehta quoted from “ The case for Prohibition ” by Ben H. Spence of Toronto, Canada, who had quoted N. B. Wheeler, what improvements had been effected as a result of prohibition in America and stated on the authority of Mr Henry Ford that, as a result of it, less accidents had occurred during the last 4 years. Mr Mehta assured the House that both Hindus and Muhammadans were by religion and tradition prevented from drinking and it was one of the worst effects of foreign Government that in a country where tradition, religion and sentiment had prevented liquor, 20 crores of revenue was produced from this source. If the administration could not be carried on without this money, then that administration ought to go out of the country. Mr Mehta wanted the police to go more after those who resorted to illicit distillation than after the politically-minded. Sir Purshotamdas Thakurdas supported Mr Kelkar’s amendment. He said that in a case where both Hindu and Muhammadan wishes met, the proper course for the Government was to meet the wishes of the people. Sir Purshotamdas did not contest Col Crawford’s statement that moderate use of liquor was beneficial but he doubted how in the present state of the education of the people excess could be prevented. The manner of the location of liquor shops supported the view that the policy of the Government was to increase the revenue. In view of the climatic conditions, religious tenets and the state of education in India, the use of liquor was not suitable and Sir Purshotamdas urged upon the Government the duty of placing the poor beyond

temptation. He hoped that too much stress would not be laid by Government on the financial aspect and a Government which had spent a good deal of money on China should not hesitate to adopt a measure which would benefit the children of the soil. The Finance member refused to approach the problem for a moment mainly from the point of view of finance or with any considerable bias in favour of revenues from excise duty. He asked the House to consider that there was absolute unanimity on the main proposition that every effort should be made by the Government of India to combat any abuse of alcoholic liquor, that their policy should be directed to securing that India should remain free from any of those habits of intemperance by the use of alcoholic liquor which had in the past been a noticeable feature in the life of some of the Western countries. Where they were not agreed was as to the ultimate goal and the Finance member regretted the impossibility of his accepting anything in the nature of a commitment by the Government to a statement that the ultimate goal of policy should be prohibition. Their policy was one of temperance in the strict sense of the word. It was perfectly true that the receipts, including provincial receipts, from excise and customs on alcoholic liquor had very considerably increased in recent years, but the Finance Member asserted that that was precisely because the policy of the Government had been "one of maximum revenue and minimum consumption." One of the difficulties in regard to the statistics of consumption of alcohol was that for the last half a century there had been a continuous transfer from the "outstill system to the system of Government distilleries," and there was not the least doubt that under the old system there were considerable lacunae in the figures of consumption of alcoholic liquor. There was more country spirit produced and consumed than the figures showed because control was less perfect. Since the transfer to the distillery system, the figures of consumption had been very much nearer the actual facts and one would naturally expect that merely by inclusion in those statistics of a certain amount of consumption which was previously excluded, there would be visible an increase in consumption. In 1883-84 the percentage of the total population of areas served by outstills was 53, by 1903-04 it had been reduced to 35 per cent, by 1912-13 to 7.49 per cent and it now stood at 2.74 per cent. The number of shops per 100,000 of the population had fallen between 1883-84 and 1903-04 by 30 per cent and had been reduced to 6.77 as against a figure of 15 in 1903-04 and something over 20 in 1883-84. Coming to consumption of country spirit, in 1883-84 it was nearly 5 gallons per head of the population, in 1903 it was over 4 gallons, in 1924 it was 2.68 gallons, it had been almost exactly halved in the last 40 years. This consumption of 2.68 gallons per 100 of the population compared with the figures of 15.33 gallons in Ceylon, 30 gallons in England and Wales and 38 gallons in Scotland. The average consumption had fallen by 36 per cent in the last 12 years. In 1921 it was 10,215,212 proof gallons, in 1923-24 6,626,875 proof gallons. "That is much less than two-third and approaches nearly one half of the figures of 12 years before." The Finance Member said that Dr. Datta had fallen into an error in giving the figures of imports of spirits as those spirits included perfumed and denatured spirits. Wines had been reduced from 102,488 to 67,601 proof gallons in 1923-24. The total, including ale and cider, was 1,738,385 proof gallons in 1912 and 1,246,232 proof gallons in 1923—a reduction of about 28 per cent. "I maintain, therefore," said the Finance

Member, "that the statistics show that the policy of the Government has been very distinctly effective in securing a very remarkable reduction in the total quantity of alcoholic liquors, either imported or country made, consumed in India. The fact that revenue has gone up is not, I think, really germane. It is only a proof of the success of our policy, which, I believe, is the only effective policy that you can pursue of attempting to get the maximum revenue from the minimum of consumption." Proceeding the Finance Member said that the duties were already so high that there was considerable danger of illicit production and to raise them higher might decrease the total revenue from alcohol and at the same time it was certain to increase the total consumption in India "owing to the inevitable increase in illicit distillation." However much the Assembly might desire to prevent altogether the use of alcohol for other than scientific and medical purposes, the Finance Member thought that a policy of complete prohibition was entirely out of the question in the present circumstances of the country and would be contrary to the highest principles of ethics. None of those who had supported the motion really believed that that policy could be put into practical effect within this generation or probably within the next. Why then, the Finance Member asked, "should we commit ourselves now to a policy of ultimate prohibition?" The Finance Member quoted Abraham Lincoln's opposition to prohibition and brought forward evidence to show that the policy of prohibition, unless circumstances were extraordinarily favourable, would lead to a great many very undesirable results. "It has become a serious menace to the whole fabric of law and order in certain parts of the United States, it has led to corruption among the Federal Agents, a considerable amount of actual man-slaughter, and a general lowering of the standard of respect for law and order among the citizens." It had been the experience of a good many countries which had introduced prohibition that they had tried it in all good faith and had deliberately rejected it and come back to a form of the policy of maximum revenue, maximum control and minimum consumption. It was not for the Government of India to give directions to provincial Governments as to what their action in legislating in regard to transferred subjects should be, but the Finance Member was inclined to agree that if a policy of local option or prohibition was to be attempted by Local Governments with any very great vigour the Government of India would not be able merely to look on. One of the clear lessons of America's experiments in prohibition and local option was "that local option and local prohibition involved even greater difficulties than complete prohibition." The Finance Member asked the House not to forget that there were boundaries all over India between British India and the Indian States and the problem seemed almost insoluble as to how if prohibition were introduced legally in a province it could be enforced with so many international boundaries between that province and the neighbouring Indian State or States included within the area of the province. The proposals included in the amendments the Finance Member said, involved a recommendation to take action which either constitutionally was not within the province of the Government of India or which needed to be very much more carefully considered before it was adopted as a practical proposition. The steps which were already being taken by the Government of India the Finance Member thought, the best he knew of, and he suggested the House should pass an amendment to which Government could,

If such an amendment was passed, the Finance Member promised that Government would re-examine the whole question and see whether within the area within which the Government of India were directly responsible any further steps could be taken, and it would involve a recommendation to the provincial Governments generally which, the Finance Member gathered, was one of the objects with which the resolution had been moved. He could neither support the resolution nor the amendments and appealed to the House to take a practical view of the whole matter.

Dr Datta withdrew his amendment and Haji Wajihuddin accepted Mr Kelkar's amendment, which was put to the vote and carried by 69 votes against 39.

The resolutions connected with industries related to the position of the cotton mill industry recommended bounties on steel and on wagons and protection to certain forms of paper industry and asked for a reduction, under certain conditions, on the freight on coal.

On the 31st September 1925 Mr Haroon Jaffer was to have moved a resolution in the Council of State asking for an immediate inquiry into the condition of the Indian cotton mill industry and into remedies for its amelioration. Shortly before that a deputation had waited on His Excellency the Viceroy and Mr Haroon Jaffer stated that the offer of an inquiry made by His Excellency was under the consideration of the mill-owners. He did not therefore, desire to complicate matters unnecessarily by proceeding with his resolution and asked for leave to withdraw it. The resolution was by leave withdrawn.

On the 16th September the position of the Indian textile industry came up when Sir Purshotamdas Thakurdas moved —

"That this Assembly recommends to the Governor General in Council to be pleased to forthwith suspend the collection of the cotton excise duty for the rest of the current year 1925-26 in view of the critical stage of the Indian textile industry as at present prevailing."

Sir Purshotamdas Thakurdas referred to the fact that the grant relating to the expenses for the collection of the excise duty which had been rejected in March last by the Legislative Assembly had been restored by the Governor General and the idea which had led them to refuse the grant also underlay the motion he was moving. Those who had asked in March last for the abolition of the excise duty had shown considerable foresight. It was then contended that only mills in Bombay were either losing or just making both ends meet. The crisis which had been foreseen in Bombay had also travelled to Ahmedabad, and even Cawnpore and Madras would soon feel the pinch. Sir Purshotamdas understood the Viceroy to have said in the course of his reply to the deputation that India was producing more than before the war and that had led to the present difficulty. Sir Purshotamdas said that before the war 45 to 48 per cent of the total consumption of cloth was manufactured in India. But at the present time they were still very far from anything like 75 or 80 per cent of the requirements of India which they ought to have been able to produce. Sir Purshotamdas was disappointed that His Excellency the Viceroy should have thought that the blame for the present crisis should be that we are progressing in the direction of making India self-reliant and independent of imports from outside."

Sir Puishotamdas appreciated the anxiety of the Viceroy to ensure that the relief available should not be half-hearted. But he could not understand why His Excellency had desisted from agreeing to the request of the deputation to remit the cotton excise duty. Sir Puishotamdas thought that it was incumbent on the Government to take action in the middle of the year not only in the interests of those engaged in the industry but of the entire trade in those parts where the industry was the most important occupation of the citizens. In spite of three normal Monsoons the buying power of the people had been so much reduced that locally manufactured goods worth Rs 12 crores were lying awaiting buyers in Bombay and Ahmedabad alone. The mills found that compared with the prices of cotton and with other charges they had to pay they could not make both ends meet and were dropping money. In Bombay 11,500 labourers had been thrown out of employ owing to 5 mills having closed down and when the 4 mills which had given notice of closing down were closed another 8,000 hands would be thrown out. In Ahmedabad 2 mills had closed down and 6 were reported to be on the market for sale. News had also been received of a strike in Bombay affecting 12 mills, which meant that nearly 12,000 more people would be out of employment. The Government of India, Sir Purshotamdas urged, must indeed have hearts of steel if even under these extremely difficult circumstances they found it difficult to move in the direction mentioned in the resolution. Prudence at this juncture dictated not that the Government should be over-cautious, but that they should extend their assistance. He did not think it right of the Finance Member to raise objection on the ground of finances when an industry of such acknowledged importance was in trouble. Concluding the speaker said that the Government of India were not free agents in the matter and that the excise duty was abolished in Egypt when a national Government had been established. If even at the present juncture the duty was not suspended in India, the conclusion one would come to would be that only a national Government in India would give the country what was its due. Mr N M Dumasias supported the resolution and said that Government were attempting to draw water from a squeezed sponge and wanted to build up their foundations on the ruin of a national industry. That industry had supplied in the past golden eggs to the Government exchequer and Mr Dumasias appealed to Government not to kill the milch cow. The excise was an admitted wrong and it was not heroic to persist in it. Dr Macphail said that although his instincts were in support of the proposition of Sir Purshotamdas Thakurdas, he would not support the resolution with any enthusiasm unless he got some assurance that Madras would not be

felt that the suspension of the excise duty would not be a cure for the present situation and advocated an inquiry into the situation itself. Sir Basil Blackett replying to the debate said that the suspension of the excise duty meant "nothing else than abolition of the excise duty as from now" and he saw no possible distinction between suspension and abolition. If Government accepted the resolution, for the rest of the financial year the duty would not be collected. But it would be part of the hypothesis that the collection would begin again on the 1st April 1926. An important objection to this course would be that Government would have a staff costing annually about Rs. 70,000 to Rs. 80,000 which would be unemployed for six months. The loss in the current year of duty would be between Rs. 80 and Rs. 90 lakhs. The duty was payable at the moment of issue from the mill and the mill-owners would take very great care that there were no stocks of any kind (Mr. Dumasra had stated that at present there were 12 crores worth of stocks), unused on the 1st April 1926. Government would therefore lose the duty not merely on the production before the 1st April but also on the whole of the amount now in stock, which would mean another Rs. 50 lakhs. Turning to the position of the mills, the Finance Member said that they were suffering among other things from over-production and their difficulty was to get rid of their stocks. The suspension of the duty with the prospect of its reimposition on April 1st would give them a direct incentive to produce as much as possible in the next six months and close down on the 1st of April. "Is that good for any industry?" asked the Finance Member. Proceeding the Finance Member said that he could not find the money to give effect to the resolution except out of the budget of the year and he did not yet know how the year was going to turn out. They had had a fairly good monsoon, but the Finance Member saw no reason to modify in any large direction the estimate which had been made at the time the budget was introduced. On the figures before them Government saw no reason to think that they should be safe in doing for the rest of the year without the amount of revenue which the suspension of cotton excise duty would involve. Quite apart from that suspension would mean that they would be trenching to the extent of nearly Rs. 50 lakhs on next year's revenue, while if the duty were not reimposed—and of course it could not be reimposed—on April 1st next, they would be short not merely of Rs. 50 lakhs only but of Rs. 2 crores of what they were at present entitled to count as part of their revenue. If, as some members hoped, exchange was to be at £0-1-4 next year, Government would have to start the budget with an apparent deficit of approximately Rs. 3½ crores, and the present was obviously not the moment when they could consider the abolition of the duty except in entire disregard of the financial situation and of the financial possibilities. If they once suspended it Government could not conceivably, however serious their financial position might be short of real calamity, reimpose the duty next April. If Sir Purshotamdas meant anything by his motion which was really temporary, he was asking that the House should give a subsidy to the cotton mill industry, which would approximately amount to Rs. 130 or Rs. 140 lakhs and the Finance Member did not believe that the situation was so grave as to require this heroic measure. The Finance Member held that if the emergency was such as to require that the industry should receive a subsidy the proper way to approach the question would be to ask the House for a direct vote. The indirect method which had been adopted would mean that the suspen-

sion of the excise duty would go to assist among others the mills in the Carnatic which were not suffering and one of whom had recently paid an *ad interim* dividend of 10 per cent. The mills in Cawnpore, which were not in trouble would also benefit by the subsidy in this form. The situation in India Sir Basil Blackett observed, was in no way comparable with that in Great Britain where a grave emergency which threatened the whole fabric of the industrial life of the country had arisen. Moreover, he did not think that the subsidy granted in Great Britain during the coal crisis was any sort of a precedent which India should be in a hurry to follow. Another objection to the resolution, the Finance Member urged, was that it was brought up in the middle of the year and both the Public Accounts Committee and the Standing Finance Committee had been setting their faces against any new financial proposals unless absolutely unavoidable, being made in the course of the year. The right time to come before the House and before Government in a matter like this was during the budget and it was a doctrine which the Finance Member thought was absolutely essential to the proper working of the Finance Department. Dealing with Sir Purshotamdas' contention that the tax originally represented only  $3\frac{1}{2}$  per cent but had now become  $8\frac{1}{2}$  per cent of production, the Finance Member said "He does not, I think, suggest, that the tax has increased beyond  $3\frac{1}{2}$  per cent of the cost of production including raw material. It started by being  $3\frac{1}{2}$  per cent and it is still  $3\frac{1}{2}$  per cent of the cost including raw material. In so far as there is protection in the case of the cotton duties, exactly the same applied to the 11 per cent import duty. The protection that the cotton mill industry gets in this country is  $7\frac{1}{2}$  per cent, and I have never heard them say that the protection has been doubled because prices have doubled." Turning to Sir Purshotamdas' contention that the buying power of the people had been enormously reduced, the Finance Member inquired as to how it was that they had last year imported 90 crores worth of precious metals, that did not show that the buying power was less, but that the people were unwilling to buy cotton goods owing to the high price of cotton. The Finance Member thought that it was unjust to regard cotton excise as a capital levy. It was, what it called itself, an excise duty. Originally it had been a countervailing duty but it was now an excise duty which did not in any way act as a countervailing duty as compared with the 11 per cent duty on imports. The Finance Member reminded those who said that the cotton excise duty had no precedents of the fact that in the course of the year in the British budget an excise duty on artificial silk had been introduced which was exactly comparable to the excise duty in India with the exception that that was countervailing duty and the duty in India was not. "It is a tax which I think everyone in the House desires to see disappear," said the Finance Member "at the very earliest possible moment, because it has a very bad history. I yield to none in the desire to see it go at the earliest possible moment but it must, I think, go with reference to our financial position. It cannot go simply because there is temporary difficulty in the cotton mill industry." The suspension or abolition of the duty would be a very slight palliative and it was obvious that the difficulties were very much bigger and more serious. Turning to the suggestion for an examination into the industry the Finance Member said that the Viceroy had made the offer but no reply had yet been received. The proper time for the discussion, the Finance Member felt, would be in



connection with next year's budget when the House could take all the facts of the case into consideration and if the mill-owners would by then have agreed to an inquiry into the industry, the situation in regard to the cotton mill industry might be better known to the House. Concluding the Finance Member repeated what he had said six months ago, "that the Secretary of State's attitude in regard to this matter is not in question. If the Government of India were of opinion that the time had come for abolition of the duty, there would be no question of any kind of intervention from London." He appealed to the House not to be led away by any other considerations than the one as to whether the moment had come at which they could completely get rid of this tax.

Mr. Kasturbhai Lalbhai said that the time for lip sympathy and pious hopes had gone and in the third successive year of depression in the textile trade when it was not in a position to draw on its past reserves, unless something was done immediately, the industry would receive a set back from which it might not be easy to recover. Sir Darcy Lindsay considered the situation dangerous and felt it very necessary that Government should extend a helping hand to this great national industry. He had been told that the immediate effect of a remission of the duty would be a reduction of three-fourths anna in the price of the cloth and he hoped that this would materially help sales and reduce stocks to normal conditions. When the House had given Rs 18½ lakhs to the steel industry in the middle of the financial year, Sir Darcy saw no reason why it should treat the cotton mill industry differently. Sir Charles Innes said that there was all the difference in the world between giving a grant of Rs 50 lakhs to a single firm and giving a suspension of taxation amounting to Rs 100 lakhs to an industry which comprised well over 100 to 150 mills. The Commerce Member regarded as incorrect the statement that the suspension would make all the difference to the cotton mill industry and doubted whether it would even touch the fringe of the problem. He endorsed the Finance Member's remark that if the tax was suspended, it would not be practical politics to put it on again in March next. Government's sole point, the Commerce Member said, was "that before the House comes to this decision, they ought to have the issue properly before them and they should not be led away into giving a premature decision in favour of the abolition of the cotton excise." The Commerce Member did not see why the mill-owners referred Government to the Fiscal Commission and said that they would not have an inquiry until the cotton excise duty had been taken off. "Well, Sir," said Sir Charles, "If we remitted that question to the Tariff Board for inquiry, it will be no part of the Tariff Board's duty to decide or to advise us whether or not the cotton excise duty should be taken off. That is a decided question. It would not be reopened in any way at all. I cannot help wondering why the mill-owners always refuse that inquiry. We cannot remit the matter to the Tariff Board for inquiry unless the mill-owners apply." In his reply Sir Purshotamdas Thakurdas said that the reason why 90 crores of gold had been imported in India was to be found in the policy of the Finance Department of artificially cheapening gold in India and making it available to the masses at Rs 21-6-0. The removal of the cotton excise duty was their birth-right and they were accordingly asking for it as the contingency was one similar to that of an outbreak of war. The Finance Member had hidden away crores of rupees and if the Government of India still hesitated to suspend the

cotton excise duty, it would mean that no relief would come from them. Sir Purshotamdas said that he could not claim to speak for the mill-owners but he felt that their disinclination to accept the Tariff Board's intervention was due to the suspicion that Imperial Preference might be forced on India and greater relief might, as a result of the inquiry, be given to Lancashire. Sir Purshotamdas thanked Sir Darcy Lindsay for his support and emphasised that on this question European and Indian commercial opinion was united. Sir Basil Blackett in the course of his reply said that one of the main reasons why Government had spoken about the Tariff Board inquiry in regard to the mill industry was that the mill-owners had asked Government for the imposition of a higher import duty on yarn and cloth below 30 counts on the ground of protection. Mill-owners did not desire an inquiry, probably, because they did not think that their case was one which would bear much investigation. The Finance Member repeated that the resolution really asked for the immediate abolition of the cotton excise duty. The motion was put to the vote and carried by 57 votes against 32.

On the 15th September 1925 Sir Charles Innes moved the following Resolution in the Legislative Assembly —

“That this Assembly recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions

- (1) The bounty should be paid only to firms or companies manufacturing, mainly from pig-iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894
- (2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs 12 a ton on 70 per cent of the total weight of the ingots manufactured in each month
- (3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March 1926 should be 18½ lakhs and in the year commencing the 1st of April 1926 and ending the 31st of March 1927 should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs ”

He reminded the House that in January he had proposed that bounties amounting to 50 lakhs of rupees should be given to the steel industry in the year beginning on the 1st of October last. He

Bounty on Steel had then promised that the whole question would be re-examined by the Tariff Board during the summer and brought up again under the review of the Assembly during the present session. In pursuance of that promise the Tariff Board had examined the question and had recommended special assistance for the steel industry. In the proposal Government were making they had cut down to 60 lakhs the bounty of 90 lakhs recommended by the Tariff Board for the remaining period of the life of the Steel Protection Act. The Commerce Member said that the recommendation of the Tariff Board had come to him as a shock. In January the position of the steel industry in India was very serious and Government had deliberately come to the conclusion that the right course for them to take was to adopt a bold and generous measure. As a result of the action Government had taken they had succeeded in extricating the Tata Iron and Steel Company from that serious position. The position of the industry at present was very much better. The difficulty as regards the stocks which were hanging like a thunder cloud over the market in January was over because the stocks had been di-

and the price of steel had been stabilised with the result that the calculations made in the Commerce Department showed a considerable increase in the consumption of steel in India. Again, in January enormous stocks of steel were held by the Tata Iron and Steel Company and these had now come down to normal, there were no more of those forced sales at ruinous prices which were such an embarrassment to the Company in the autumn of last year. There had also been a stoppage of the enormous flood of imports of steel into India and there were signs that the policy of protecting the steel industry was becoming effective. These were the reasons for which Sir Charles was surprised at the recommendation of the Tariff Board, though he recognised that those recommendations were perfectly logical. The Government of India had to look at the matter from rather a different point of view than the Tariff Board and he emphasised that in reducing the proposals of the Board they were not in any way weakening in their policy of protecting the steel industry. They had to take various considerations into account. In the first place, they had to safeguard themselves against any impression that they would guarantee the Tata Iron and Steel Company any particular price. In the next place, they had to remember that bounties were a very much more generous form of assistance than increase of duties and they were asking the House to pledge itself to a scale of bounties for the rest of the life of the Steel Protection Act. Thirdly, the Commerce Member did not think that in calculating the fair price of locally produced steel the Tariff Board had taken into account the reduction in the cost of internal production caused by the increase in exchange. The Board had taken into account only bounty steel while Government had to treat the industry as a whole and to bear in mind that that industry made not only bounty steel but also the other steel. If the Tariff Board adjustment was applied to both kinds of steel it meant that the amount of bounty might legitimately be reduced by 10 lakhs. Another consideration of the kind which had influenced the Government was that the Tariff Board's estimate of the surplus revenue from the protective duties was only an estimate and Government were inclined to think that the margin of 24 lakhs which they had stated was too small. Moreover, Government were dealing with the taxpayer's money and had to be careful not to be too generous to one firm at the expense of other legitimate claimants. Another factor, which under the terms of reference the Tariff Board could not have taken into account but which Government had to, was that bounties were rather a demoralizing form of assistance and their danger was that the firm to which they were given might rely too much upon Government and too little upon itself. Sir Charles regretted that the appeal he had previously made to the industry to co-operate with the Government and the Legislature had so far evoked no response. Owing to the way the capital of the Company was arranged, about two-thirds of the share capital took the form of second preference shares, the interest on which was cumulative, for the past three years the arrears of that interest amounting to about 50 lakhs a year had been accumulating. There was a load of debt amounting to a crore and a half on that score alone round the neck of the Company and Sir Charles wished the House to send a message to the Company to take the matter in hand and to co-operate with them in putting their industry upon a sound and healthy basis. In addition to this burden, if Sir Charles' proposals were accepted, they will have paid during the life of the Act to this one Company 203 lakhs. "I feel that the Government and this House," said Sir Charles, "have a right to claim from the industry co-operation with

us in this matter I am perfectly satisfied that, though we are not putting the Company on velvet, yet we are giving them a very liberal measure of assistance and the figures in the Tariff Board's own report will bear that statement out' Concluding Sir Charles said that he could not say whether exchange would go up to any serious extent for any prolonged period but if it did it would be a new factor requiring consideration Mr Charters regretted that the Commerce Member had been compelled to bring up a Resolution to give a further extension of bounties to the Steel industry But he admitted that there were reasons for it and the Chambers of Commerce fully agreed to any action that was found necessary to keep the Company going provided the support was given by bounties Sir Purshotamdas Thakurdas considered it very unfortunate that the Company which had helped the Government during the war at great sacrifices to the interests of its shareholders should have been a Company consisting of private shareholders In the proposals the Government of India had put forward Sir Purshotamdas thought that they were only making a deferred payment to the company for what they had taken from its shareholders more or less under a moral promise which had still to be carried out Coming to the appeal for co-operation the Commerce Member had made, Sir Purshotamdas said "There is a part of the capital rupees 7½ crores in preference shares what do you want the Company to do with that capital? Why not say definitely to the Company, this is what you would like the Company to do, and give your reasons for it" Sir Purshotamdas was prepared to agree to any vote the House might pass in connection with what would be the fairest thing for the Company to do by the tax-payer of the country But he objected to take without challenge the opinion of the Executive of the Government of India when they had had radical differences of opinion with them "Let this House go into a committee on this question, let a strong, expert committee be appointed in order that the necessary terms may be laid down after hearing representatives of the Tata Iron and Steel Company" Syed Majid Bakshi opposed the Resolution Mr K C Neogy remarked that it was the business and the duty of the Assembly to adjust the conflicting interests of the consumer to those of the trade which it sought to protect Galvanized sheets were very largely in use among the poorer classes and the high duty which the Government had fixed on this item was working very harshly so far as the large portion of the consumers in Bengal was concerned Mr Neogy did not oppose the motion Sir Basil Blackett did not see how Mr Neogy could make the complaint he had made unless he had weakened in his support of the policy of the protection of steel It was true that Government had had rather more revenue from these protective duties than had been originally estimated and that galvanized sheets were responsible for a portion of the increase, but the main portion of the increase was due to the very large imports which had taken place in the first few months of the early portion of the period during which the Act was in force It was incorrect to infer from that that the policy had been unsuccessful That the policy had proved very effective was evident from the figures showing a considerable reduction in the receipts other than galvanized sheets One of the main reasons why receipts from galvanized steel had increased after the Tariff Board's first report was to be found in the general fall not only in the rupee but also in the sterling price both of British specification and Continental regards exchange it was not possible to make any reasonable arrangement in advance to deal with an emergency of that sort But the Fi

Member hoped that the question might not arise. Government had no desire to see exchange rise in existing circumstances beyond 1s 6<sup>3</sup>/<sub>4</sub>d though naturally pending the report of the Currency Commission they could not commit themselves to any view as to what the final future of the exchange rate should be. The Government of India were desirous of making effective their policy of protecting the steel industry. But they had never been concerned with the Tata Iron and Steel Company as such. It was not for the Government, or for a Committee of the Assembly, to lay down the exact terms on which the part of their capital which could not be expected to earn a return should be dealt with. But the Finance Member thought it right that the Government and the Assembly should make it clear to the Company that their policy was to enable the Company to earn a reasonable return on the capital which was really engaged in turning out steel and it was not their policy to put a Company in a position out of bounties, voted at the expense of the tax-payer, to pay the arrears of dividends on second preference shares. Mr B Das moved the following amendment —

“(a) That in clause (2), for the word and figures ‘Rs 12’ the word and figures ‘Rs 18’ be substituted

(b) That in clause (3), for the figures and word ‘18½ lakhs,’ the figures and word ‘28 lakhs’ be substituted”

He asked the Commerce Member not to talk of generosity but of mathematical accuracy. Sir Charles referred to the reasons (he had given in his opening speech) why Government had been unable to accept the opinion of the Tariff Board and added that he was perfectly satisfied that the proposals were in the true interests of the Iron and steel industry. Mr Das's motion was negatived without a division. Mr N M Joshi moved the following amendment —

“That at the end of the Resolution the following be added

- ‘(4) That the amount of the bounty paid in accordance with the Resolution shall be reimbursed by the company receiving the bounty out of the balance which may remain out of profits after distributing a dividend of 8 per cent to its shareholders in any following year or years
- (5) That the Government of India shall insist that the company receiving the bounty shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of that company are satisfactory
- (6) That the Government of India shall have such representation on the board of directors of the companies receiving the bounty as the Government of India consider to be adequate”

With regard to the first clause of the amendment, Sir Charles said that the Company could only repay the two crores in two instalments, and the result would be that protective duties amounting to 168 lakhs of rupees would have to be continued until the amount had been repaid. The second clause was much too vague and the House could not, in fairness to the Company or the officer contemplated, impose a condition of that kind. It was up to the Legislature to lay down the canons and to prescribe the standards on which the officer had to work. The proper way to deal with the question was to improve the Factories Act or the Workmen's Compensation Act. As regards the representation on the Board of Directors Sir Charles said that the analogy of Company railways to which Mr Joshi had referred failed because company railways were given a monopoly, most of these railways were owned by Government and because the Government Director there had over-riding powers

which could not be given in the present instance. Mr. Joshi's motion was negatived.

On the 9th September this Resolution had already been brought up by Mr. Chadwick in the Council of State and carried. A brief summary of the discussion there will not be out of place. Sir William Currie preferred free competition but acquiesced in the grant of assistance which he did not consider unreasonable. Colonel Nawab Sir Umar Hayat Khan said that although he was formerly very much against protection, he had changed his view because he felt that if anything happened in the East as it had happened in the West during the war, India would stand in danger of being blockaded and articles of commerce might not come in freely from outside. If at that time they did not have a big industry like Tata's they might not have some of their railways. Sir Maneckji Dadabhai supported the Resolution because it gave effect to a principle laid down by the Fiscal Commission. Mr. Sethna said that the Tata Iron and Steel Company were most grateful to Government for the most timely help they had extended to them but he felt that the recommendation of the Tariff Board was by no means excessive and Government might well have agreed to it and thus enabled the Company to turn the corner earlier than it might now be expected to do. Sir Arthur Froom liked to see the industry put on its feet but he emphasised that if in a few years it did not show that it could stand by itself it would not be worth spending further money on it. Mr. Maumohandas Ramji and Mr. G. A. Natesan also supported the Resolution. Mr. Karandhikar desired the Government to see that, when they extended bounties to such concerns, the latter must exercise the utmost discretion in the matter and must not make the management top-heavy. Sir Deva Prasad Sarvadhikary would have preferred to go a little further but he contented himself with supporting the Resolution.

The Resolution having had the approval of both the Assembly and the Council of State, Sir Charles Innes moved on the 15th September

"That a sum not exceeding 18½ lakhs be granted to the Governor General in Council to defray the charge which will come in course of payment during the year ending the 31st of March 1926 on account of the bounty which has been recommended in the Resolution just passed that the Governor General in Council should pay on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927."

The motion was adopted.

The Assembly also agreed to the payment of bounties upon wagons when the following Resolution was moved on the 17th September 1925

Bounties on Wagons by Sir Charles Innes

"That this Assembly recommends to the Governor General in Council that legislation be undertaken to amend section 4 of the Steel Industry (Protection) Act, 1924, so as to empower the Governor General in Council to pay by way of bounties upon wagons a sum not exceeding 21 lakhs during the three financial years commencing on the 1st day of April 1924, 1925 and 1926, instead of a sum not exceeding 7 lakhs in each of these financial years."

Sir Charles explained that section 4 of the Steel Industry (Protection) Act limited them to the payment of bounties upon wagons to not more than 7 lakhs in any one year during the life of the Act. As soon as the Act was passed tenders for wagons were called for and orders were placed last August. Four months of the financial year had been lost and it took

wagon firms a considerable time to collect materials. The result was that, though orders had been placed in August of last year for 2,300 wagons, they had only been able to pay Rs 2,85,000 in the way of bounties up to the 31st March 1925. Consequently, out of the 7 lakhs allotted for bounties in the current year, upwards of 5 lakhs was due for wagons for which orders had been placed last year, and for the wagon orders this year they had got only over one lakh. The result was that next year's bounty would largely be spent in paying the bounty on wagons ordered this year. They would only have about 3 lakhs for fresh orders for next year. The Resolution was, therefore, brought in to ask the House to agree that Government should make the policy of the Legislature effective by being allowed to spend 21 lakhs in three years instead of not more than 7 lakhs in each year. Dr Lohokare asked Government to pay attention to the necessity of Indian purchased steel being utilised by such companies as received orders for wagons in India in the years the bounties were allowed. The Commerce Member said that there were certain classes of steel which could not at present be obtained in India but he assured the House that the firms building these wagons did buy Indian steel wherever it could be suitably procured in the country. The Resolution was agreed to.

On the 10th September 1925 Sir Charles Innes moved "That this Assembly recommends to the Governor General in Council that assistance

Assistance to Bamboo  
Paper and Paper Pulp  
Industry

be given to the bamboo paper and paper pulp industry in India by the imposition until the 31st March 1932 of a specific protective duty at the rate of one anna per pound on all printing papers (other than chrome, marble, flint, poster and stereo) which contain less than 65 per cent of mechanical wood pulp and on all writing paper." Sir Charles said that the paper industry might be divided roughly into two classes, that is the mills which made paper from Sabai grass and those which made it from bamboo. At present there was only one mill in India which made paper from bamboo grass, and that belonged to the Indian Paper Pulp Company which had a maximum output of 2,750 tons of paper a year. In considering the question of protection to this industry, the first point the Tariff Board were brought up against was that the scope for the expansion of paper manufactured in India was comparatively limited. For the last two years the imports of paper into India had averaged about 80,000 tons a year, and from these imports had to be deducted large quantities of old newspapers, paper on which newspapers were printed, and paper which was not made in India and had to be excluded. After making these deductions the scope of expansion for the paper industry in the country was not more than 20,000 tons a year. The Tariff Board had distinguished between the two classes of mills, the grass mills and the bamboo mills, and had considered separately their claims for protection. The tariff Board thought that subject to one reservation at Saharanpur where a mill was projected but had not yet been built, and where for special reasons the prospects might be favourable, the existing grass mills did not satisfy the conditions laid down by the Fiscal Commission. The existing paper mills using Sabai grass had no natural advantage because the paper manufactured by it had certain defects which militated against its usefulness as a printing paper and that grass was an expensive material. The Board saw no reason to hope that the mills using Sabai grass would ever be able to do without protection. The

bamboo paper, for certain purposes, was not as good as paper made from Sabai grass but had the special advantage that it approximated much more closely to the paper made from ordinary chemical wood pulp. The paper made from bamboo was, therefore, likely to meet in greater measure the requirements of consumers in India and to have a bigger market. Bamboo paper also had a great advantage over paper made from grass in its supplies of raw materials, and there was reason to hope that, if they could develop it, they would not only be able to supply practically all their own demands for paper, but might build up a very important export trade in bamboo pulp. As the cost of chemical wood pulp went up, as imported paper became more expensive, there was reason to hope that bamboo paper would in time be able to dispense altogether with protection. The Tariff Board had also come to the conclusion that the "supplies of coniferous woods were steadily diminishing" and as a paper-making material wood must become more and more expensive. It was possible, therefore, that in time bamboo pulp might be used more and more as a substitute for wood pulp. The general lines of their conclusions were clear, but the difficulty of the Tariff Board was that the possibilities of bamboo paper had not been fully tried out in India. There was a mill at Naihatti, quite a recent mill, which had already brought its works cost down considerably below the works cost of the very much older grass mills and was trying the sulphite process by which paper would be made from bamboo pulp. But it could not try out the material properly, because though it was designed and had a power plant equipped for two paper machines, so far only one paper machine had been installed and it could not try another process known as the Soda process, very important modifications of which had been developed on a laboratory scale at Dehra Dun. The Tariff Board considered that both these processes ought to be properly tried out, and therefore they were not able to commit themselves to a final decision as to whether they should embark finally on a permanent policy of protecting the bamboo paper industry. In their Report the Tariff Board had proposed that on writing papers and certain classes of printing paper the existing duties of 15 per cent *ad valorem* should be raised to a specific duty of one anna for a period of five years. In addition they had suggested that a loan or a guarantee of debentures be given to the Indian Paper Pulp Company to enable them to instal a second paper machine at Naihatti which would cost 10 lakhs. Lastly they had suggested an inquiry into the prospects of the mill which was being constructed at Rajahmundry and if the Government of India were satisfied, as a result of the inquiry that the prospects of that mill were really good, they should give a loan or similar assistance to the Carnatic Paper Mill to enable it to try out the soda process. The Tariff protection was intended to keep the industry alive while these processes were being tried out and the Commerce Minister had said that



that monopolist to try out a process which was covered by patent rights. The Government also felt that if they gave financial assistance to industries, it should be the sort of assistance which was equal for all competitors in that industry, and they felt great difficulty in advancing money to one of the mills and thereby giving it an advantage over its competitors in the Indian market. Moreover, if Government gave financial assistance to the Indian Paper Pulp Company they would also be called upon to give it to other mills installing machinery for making bamboo paper, and they would find themselves in extraordinary difficulty. Much the same objections applied to the somewhat conditional proposal of the Tariff Board that Government should give assistance to the Rajahmundry mill. The soda process which, it was proposed, should be tried out in the Rajahmundry mill was also a process which was covered by a patent right. The Government of India could not, in a matter of this kind, discriminate unfairly between particular firms competing in an industry. Their suggestion, therefore, was that they should guarantee the protection for practically a period of seven years, the additional two years ought to give both to the Naihati mill and the Rajahmundry mill about just as much money as if they had been given the subsidy. If after a reasonable period of time Government found that no effort had been made to try out these processes, they might again have to come before the House and consider whether or not they should repeal the Bill. Sir Charles claimed that he was following the recommendations of the Tariff Board and remarked that the grass mills would get the benefit of the enhanced duties as much as the mills which were making paper from bamboo. The Tariff Board had suggested that the burden on the consumer would amount to about 20 lakhs of rupees a year, and the Commerce Member said that it was for the Assembly to decide whether they thought it worth while to place that burden upon the consumer.

Sir Willoughby Carey hoped that the House would assist the paper industry and accept the recommendations of Government. India, no less than other countries, must have this essential industry firmly established. Mr Devaki Prasad Sinha opposed the Resolution. He denied that if this protection was not given a large number of labourers would be thrown out, and maintained that the protection contemplated in the Resolution was not for any national industry but for the dividends and the profits of the middleman. If the industry was really national, the only remedy for removing the present disease was to nationalise it. If any industry needed protection, it was agriculture. Mr Devaki Prasad Sinha hoped that some day they would realise that the Indian capitalists were as much a danger to the country as the British Government itself. Mr Naraiandas supported the Resolution, but said that the Commerce Member had given only a step-motherly treatment. One recommendation, divorced from the other, would lead nowhere, and he did not see why one of the main recommendations had not been given effect to. Mr Fleming maintained that it would not be possible to develop the bamboo pulp industry in Tavoy district on a large and commercial scale until some means were found to combat the scourge of Tavoy fevers in the jungles and transport conditions were improved. On the whole, to Mr Fleming, the prospects of developing the pulp industry in Burma were a long way off.

Mr N C Kelkar moved the following amendment —

“ That after the words ‘ the bamboo ’ the words ‘ and grass ’ be inserted

He insisted that if the word "bamboo" was put in the Resolution the word 'grass' must also be there. Grass perhaps had even a longer experience than bamboo and though the possible benefits of the import duty would be automatically absorbed by all kinds of paper mills in the country, he did not see why, when a subsidy was not being given to a particular industry, the word 'bamboo' should not be retained. Diwan Bahadur M. Ramchandra Rao said that the protection would be a help not only to bamboo pulp but also to Sabai grass, and it seemed to him that the Resolution should be brought into conformity with the actual facts. Mr. Abdul Have supported Mr. Kelkar's amendment. Sir Charles Innes said that the Resolution followed exactly the recommendations of the Tariff Board who had definitely found that Sabai grass had not made out its claim for protection. The Tariff Board had said that the claim for protection depended entirely upon the possibility of manufacturing paper from bamboo, and that was the reason why the Commerce Member proposed to entitle his Bill a Bill for the protection of the bamboo paper industry. If the House accepted Mr. Kelkar's amendment, it would be saying that it did not accept the definite finding of the Tariff Board regarding grass mills, and therefore Sir Charles Innes opposed the amendment. The amendment was negatived by 49 votes against 40.

Mr. K. Rama Aiyangar moved "That for the figure '1932' the figure '1930' be substituted and that at the end of the Resolution the following be added — 'and by advance of capital or by the guarantee of capital and interest to the extent of Rs. 20 lakhs to the industries referred to in the 'Annexure' to the report on the paper industry subject to such conditions as the Government may feel fit to impose'". He appealed to Government to see that the whole of the Tariff Board's recommendations were carried out in full and he saw no point in taxing the consumer alone without any benefit to the company. Sir Charles Innes was definitely of opinion "that if we give financial assistance in this way, whatever assistance we give to this industry, it ought to be assistance which does not discriminate between firm and firm competing in the same market, and that is why we put up to this House this alternative proposal". Mr. Rama Aiyangar's amendment was negatived.

Mr. A. Rangaswami Aiyangar moved —

"And this Assembly further recommends that the recommendation of the Tariff Board for the grant of loans or subsidies to firms with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process be reconsidered and accepted in principle and that further investigations be made in accordance with the recommendations of the Tariff Board as to the most effective manner in which assistance may be given to all the companies or firms that are prepared to explore these possibilities on a commercial scale". Sir Basil Blackett assured Mr. Rangaswami Aiyangar that he was entirely mistaken in believing that the Government had ever conveyed or had intended to convey any kind of general decision in regard to the grant of loans or subsidies. Government considered it undesirable to grant loans or subsidies to this particular firm which had a monopoly, which had already put something like half a crore of rupees as capital into the working of the monopoly, and might require perhaps another ten lakhs to continue that experiment. One of the objections to the grant of a loan or subsidy in the manner suggested was that it would involve the transfer of the

paper industry from being a Transferred subject into a Central subject, and the Government of India had come to the conclusion that it was undesirable to follow up this particular recommendation of the Tariff Board. The Finance Member asked the mover of the amendment not to raise a very big question of principle which was not germane to the subject under discussion. If the general question was raised, Government would want very much more time than they could get that day to deal with it, and clearly they could not accept any amendment without a complete alteration being made in the whole situation. Mr M A Jinnah asked that Government should place their proposals before the House in due time and give them opportunities for the purpose of discussing those proposals. Mr M K Acharya thought that no reasonable person could oppose Mr Rangaswamy Aiyangar's amendment. Sir Hari Singh Gour thought that the amendment would not serve the purpose for which it was being moved. The Tariff Board were not formulating any general recommendations for subsidising the paper industry in India, and their recommendations were confined to a single company. He felt that both Mr Acharya and Mr Rangaswamy Aiyangar had been misled by stray passages in the Report and pointed out that the Report was not their recommendation. The Assembly was considering a limited Bill, and a Resolution limited to giving effect to some of the recommendations of the Tariff Board, it was in that light that Sir Hari Singh Gour regarded both Sir Charles Innes's motion and the amendment which was under discussion. The larger question, namely that the Government of India should examine the possibilities of the development of the manufacture of paper in this country, Sir Hari Singh contended, was wide of the mark. Mr Charters said that if this amendment was accepted by Government they would have 20 or 30 firms in Calcutta jumping at the opportunity, probably four or five in Madras, and an equal number in Bombay, and he thought that the amendment would do very much more harm than good to the existing paper mills. Sir Charles Innes did not agree with Mr Jinnah that Government should, before coming to a decision, have consulted the House. "It is for the Executive Government to formulate its decision," said the Commerce Member. "It then brings its decisions to this House, and it is for this House to criticise that decision. It is exactly what happens at Home." Dealing with Mr Jinnah's complaint that Government were not giving enough time, the Commerce Member said that the fault was not his. Had this Resolution been brought up in the Delhi session, the Bill might have been referred to a Select Committee and given longer consideration. But out of the Simla session only a few days were left, and that was why he was asking the House to come to a decision. Mr Jinnah had suggested that some machinery might be devised by which, after Government had arrived at their decision, they could take some Members of the House into their confidence and explain the reasons. "That machinery exists," said Sir Charles "already in the departmental Committee." I can promise the Honourable Member that the Government will consider the suggestion that he has made. He regarded Mr Rangaswamy Aiyangar's amendment as a much more insidious attack on his Resolution than Mr Rama Aiyangar's, and he inquired what exactly the Mover was driving at. If he objected to what he considered pronouncements against subsidies, the Finance Member had already answered the objection. "I say now that it is entirely open to the Government of Madras, if they so desire, to help the Carnatic Paper Mill at Rajahmundry, either by a loan or in any way they like." The

Commerce Member could not help feeling that what the Mover of the amendment and his friends had in their mind was that sooner or later they would get something out of the Government of India for the Rajahmundry mill "Once we accept this principle," said Sir Charles Innes, "it will not stop with the Rajahmundry mill, it will not stop with the Indian Paper Pulp Company, we shall have to give these loans to mills in all parts of India, and that, as I have explained, is one of my main objections to this amendment" The amendment was put to the vote and rejected by 52 votes against 56

Discussion was not concluded on the 10th and the adjourned debate was resumed on the 14th September 1925 Mr Joshi moved —

"That at the end of the Resolution the following be added  
Provided —

- (1) That the company receiving the assistance shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of the company are satisfactory
- (2) That the Government of India are given such representation on the board of directors of every company receiving the assistance as the Government of India may consider adequate
- (3) That the company receiving the assistance shall undertake to pay an amount to the Government of India out of the balance which may remain of the profits after the distribution of 8 per cent dividend to the shareholders of the company, equal to the amount which the company may have received through the rise in prices of paper due to the imposition of the protective duty"

Sir Charles Innes said that the amendment proposed by Mr Joshi was quite unworkable. Nowhere was it stated what the officer was going to do. They would have to have a separate officer for practically every mill in India. Did it mean that he had to fix the wages or that he had to see to the housing accommodation of the labourers? There was a grave danger in having an officer of that kind, because he might be regarded as a Government spy. It was wrong in principle for the Government to interfere in this vague manner between the master and the men instead of leaving them to work together as they should. Another difficulty was that assuming that one mill was reported to have its labour conditions unsatisfactory and the other mills were reported to have their labour conditions satisfactory, what was the remedy? The only penalty would be to take away the protection, that is, because the labour conditions at one mill were unsatisfactory all the mills should be deprived of the protection which the Legislature had thought necessary. As regards clause 2 Sir Charles inquired as to how they could provide for this measure of Government control on the Board of Directors when at least one of the important companies making paper in India had no Board. If Mr Joshi meant to protect the tax-payer, the right way was that as soon as the company's profits rose to a figure mentioned by Mr Joshi, protective duties should be reduced and protection taken away. Mr Devaki Prasad Sinha felt that the amendment was not unworkable and urged the House to make full use of the occasion to insist upon employers giving proper facilities to the labourers working under them. The amendment was lost by 58 votes against 37.

Dr K G Lohokare moved the following amendment —

"That at the end of the Resolution the following be added

Provided that every paper pulp or paper manufacturing concern shall satisfy the following conditions —

- (1) At least one-third of the capital of such concern is held by natives of India
- (2) The concern is registered in India and has a rupee capital
- (3) The concern takes a reasonable number of Indian apprentices to be trained in the art of paper and pulp manufacture
- (4) At least one-third of the quantity of paper pulp produced is utilised for paper manufacture in India "

This amendment was also negatived. The Resolution, as proposed by Sir Charles Innes, was adopted.

As will be noticed under legislation, following upon the acceptance of this resolution by the Assembly Sir Charles Innes introduced a Bill to provide for the fostering and development of the Bamboo Paper Industry in British India. It went through all the stages on the 14th September and was passed by the Assembly. On the 16th September it was brought before the Council of State by Mr Chadwick. Sir Maneckji Dadabhoi could not understand why words had been introduced in the preamble limiting the scope of the Bill to the paper made from bamboo. Sir Deva Prasad Sarvadhikari welcomed the bill but doubted if the protection afforded thereby would be adequate, and Mr V Ramdas Pantalu agreed with him. Mr G A Natesan was convinced that the industry had great possibilities and ought to be protected. Sir Arthur Froom did not know where protection would land the country. Mr Manmohandas Ramji and Nawab Sir Umar Hayat Khan supported the Bill. Sir Charles Innes justified the provisions of the Bill and said that the limitation in the preamble was due to the fact that the Tariff Board had made out a complete scheme. Rai Bahadur Lala Ram Saran Das also supported the Bill, and it was passed.

A resolution with a very important bearing on industries, though not directly connected with any particular industry, was moved by Rai Bahadur Lala Ram Saran Das on the 15th September 1925, in the Council of State.

" This Council recommends to the Governor General in Council that special concession rates be granted by the different railway systems for railway freight on coal when booked in full wagon loads and at owner's risk—

- (a) for long distances of 500 miles and over, and
- (b) during the slack season over various Railways "

Dr Dwarkanath Mitter moved an amendment proposing that the freight should be reduced for long distances of 300 miles and over. The

objective, he had in view, was to place coal at a cheaper price within the reach of the industries of the various provinces in India situated at great distances from coal-fields. Mr Hadow in his reply said that although the fundamental idea expressed by the mover was at one with the Government's own ideas on the subject, he could not accept the resolution. It had always been the accepted policy of Government that the carriage of coal on railways should be charged at the lowest rates commercially possible, and Mr Hadow assured the House that there was no intention whatever of departing from this principle. Moreover, the possibility of reducing long distance coal rates had recently been under consideration and the subject had last December been discussed at considerable length at a meeting of the Associated Chambers of Commerce. The earnings for the

first five months of the financial year were down by 120 lakhs as compared with last year and the estimated gross receipts for the year had had to be revised and brought down by 2 crores. This was not the time when they could light-heartedly consider the reduction of coal rates. Mr Phiroze Sethna and Major Nawab Muhammad Akbar Khan supported the resolution. Sir Maneckji Dadabhoy saw no difference between the policy of the Railway Board and that indicated in the resolution. The amendment was rejected and the main resolution was adopted.

The Central Legislature has always attached considerable importance to railways and matters connected with them. Resolutions dealing with the comforts of passengers, with the reduction of rates, and subjects of an allied nature have been brought up almost every Session. During the last Session, however, though the interest taken by the Legislature was amply continued in interpellations, there was only one resolution dealing with railways and that was moved by Mr Sim on the 15th September 1925 in the following terms —

“That this Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways, a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway

- (a) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass, not to the Railway Board as such, but to the Financial Commissioner of Railways. On each railway system, for all ordinary purposes, the head of the accounting staff should be answerable to the Agent and should carry out his orders.
- (b) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State-worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an ‘internal check’, but the nature and extent of the scrutiny will be approximately the same in both cases.
- (c) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices.”

Mr Sim said that his motion was intended to give effect to one of the few remaining recommendations of the Acworth Committee and the proposals contained in it were the necessary sequel and the inevitable corollary of the resolution which had previously been adopted for the separation of the railway from the general finances. Under the present arrangements on the one hand the spending authorities did not compile their own accounts and on the other hand there was little or no true audit in the sense in which the word was used in ordinary commercial phraseology. The resolution proposed that all the account work should be done by the railway authorities themselves and that they should have an independent audit made by the Auditor General and his staff of the accounts which were so compiled and maintained by the railway authorities. The railway authorities were required so to administer the railway property that the Central Revenues should obtain a definite return on the capital invested in that property, and Mr Sim urged that if these authorities were to be made responsible to the House, to the Standing Finance Committee for Railways and to the Public Accounts Committee for the expenditure they incurred during

the year, it was absolutely essential that they should be made responsible for maintaining the accounts

Mr Kelkar moved an amendment that the consideration of the resolution be adjourned till the next Delhi Session of the Assembly. Among the reasons for his amendment Mr Kelkar mentioned that Mr Neogy had asked for certain papers which had not been supplied to him, with the result that it had created a feeling of suspicion, that many well-informed persons regarded the new scheme as risky and extravagant and that the real reason for the resolution as it appeared to him was that the Railway Department objected to pre-audit by an independent agency. Sir Purshotamdas Thakurdas supported the resolution. He said that it had been unanimously accepted by the 8 non-official members who had attended the meeting of the Railway Finance Committee, before which the resolution was brought up, that it had been sufficiently long before them and that it had been modified and brought up in a form to which they should agree. Mr Neogy in supporting the amendment expressed his surprise at the Acworth Committee having made this recommendation on the *ex parte* statement of the railway authorities in regard to the unsuitability of the present arrangements and at having given no opportunity to the Auditor General to explain the charges which had been levelled against him. He saw no particular urgency for the resolution. Mr Sim pointed out that the proposal had been before the House for the last five years. The note, for which Mr Neogy had asked, was not on a Secretariat file and such notes were never put forward as public documents. The papers which Mr Sim had placed before the Standing Finance Committee contained a complete statement of the views of the railway authorities, the Finance Department and the Auditor General and Mr Sim saw no point on which any member of the House wished to have information which Mr Sim and his colleagues were not prepared to answer. The amendment was rejected by 59 votes against 38.

Mr Chartres supported the resolution.

Mr Rangaswami Iyengar objected to the resolution principally on the ground that the principle upon which it was based violated the fundamental position of the Assembly and the Government of India occupied in regard to railway revenue and railway expenditure. Under the statute the Auditor General had the fullest powers of prescribing any form of accounts and any form of internal audit and that power could not be circumscribed by any resolution the House might pass. He appealed to Government to see that they did not commit the House to the principle although they might be permitted to carry out the experiment. Mr Muhammad Yakub supported the resolution. Sir Basil Blackett said that he was very anxious that the House should not feel that it was being rushed or that the matter had not been sufficiently examined. He agreed with what had been said by Mr Rangaswami Iyengar in regard to the principles of the proposed resolution but not with his conclusions. The great merit of the change, if it could be successfully introduced was that it did give an absolutely independent audit, and did not take away anything from the existing powers of the Auditor General or the powers given to him under the statute. In addition they would get much better control over expenditure within the department if they

had officers within it who were themselves responsible for the accounts. They were proposing to make the Financial Commissioner with the staff under him responsible for the accounts of the railways and the result would almost necessarily be that the accounts would be kept better and the audit would be better carried out. The form of accounts would remain under the charge of the Auditor General and the methods of audit would be entirely in his hands, and he would not in any way be influenced by the difficulties which he sometimes found of combining the work he liked to do as Auditor General with the work he had to do as Accountant General. "In his capacity as Accountant General", said the Finance Member, "he is not entirely independent, in his capacity as Auditor General he is absolutely independent, and the existence of those account functions has in my view to some extent detracted from the completeness of his independence. Under our new proposals that independence will be absolutely complete and he will be able to supplement the energetic action of this House in keeping my friend Mr Sim in order." In March last the Finance Member had said that before Government finally committed themselves to the policy of separation of accounts from audit full opportunity would be given to the Assembly to examine the whole situation. That was the reason why the resolution was brought forward, although they were not finally committing themselves to the separation, but were only proceeding by experiment. Mr Venkatapatiraju characterised the recommendation of the Acworth Committee as an *obiter dictum* and said that the railways wanted to avoid pre-audit under which alone all the proposals and details could be thoroughly examined. Mr Jamnadas Mehta supported the resolution and said that the railways, as commercial bodies, were not concerned merely in preventing waste and extravagance, but had other functions which the present system of accounts could not bring into existence. If the railways were commercialised, the Agent must be in a position closely to watch the expenditure from day to day and to evolve, by employing commercial as against budget methods, a system of accounting which existed in commercial bodies but which it was impossible to have under the present rigid system. The existing pre-audit made the super-audit nominal and the proposed system would make the pre-audit and post-audit equally searching, because each would be done by separate organisations. If the House believed in the commercialisation of railways, Mr Mehta thought that it must support the resolution. The change proposed in the system existed in Belgium which was a self-governing country, and if it was good enough for Belgium, it was certainly good enough for India.

With two amendments moved by Dr K G Lohokare and Mr M K Acharya, which were accepted, the resolution was carried in the following amended form by 67 votes against 14.

\*"This Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway.

- (a) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass not to the Railway Board as such but to the Financial Commissioner of Railways. On each railway system the accounting staff will be under the orders of



the Financial Commissioner of Railways for the purpose of appointments, promotions, transfers, etc., reporting, however, to the Financial Commissioner any differences that may arise from time to time between himself and the Agent. Such differences shall in due course be made available for inspection by the Standing Finance Committee for Railways.

- (b) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State-worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an 'internal check', but the nature and extent of the scrutiny will be approximately the same in both cases.
- (c) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices."

To complete the review of the resolutions it only remains to mention the discussion on Mr Haroon Jaffer's resolution, which had been adjourned from the Delhi Session, asking Government to keep a separate account of the interest payable by Government on deposit accounts in post office savings bank opened by Muhammadan depositors who, owing to their religious belief, had requested that no interest should be credited to them and to utilise this amount together with any interest on Government securities foregone by Muhammadan holders under similar circumstances in awarding scholarships to poor Muhammadan students in the Muslim University, Aligarh. Mr McWatters reminded the House that last March Government had agreed to consult all Local Governments and to ask them, after consulting representative Muhammadan opinion all over the country, to give their opinion on the various issues which had been raised in the debate. Local Governments had been addressed and replies were beginning to come in, but they were not complete. The Secretary in the Finance Department assured the mover that if there was a weight of opinion in favour of the scheme he had proposed, the Government were quite prepared to give the matter their serious consideration. Mr Haroon Jaffer felt that the matter might have been expedited in view of the short remaining life of the Council but he accepted the assurance given on behalf of Government and asked for permission to withdraw his resolution. The resolution was, by leave of the Council, withdrawn.

### *Supplementary Grants*

On the 15th September supplementary grants came up before the Legislative Assembly. The House agreed to a demand for Rs 1,30,000

made by Mr Sim to give effect to the resolution regarding the separation of railway accounts from audit and another for Rs 38,00,000 to defray the charges in respect of Companies 'and Indian States' share of profits on net earnings. The demands made by Sir Charles Innes for Rs 90,47,000 for the capital outlay on Vizagapatam port and by Mr Bhore for Rs 2,44,000 in respect of agriculture were also agreed to.

Sir Basil Blackett asked for a grant of Rs 50,96,000 in respect of Opium, to which the Assembly agreed, but his demand for Rs 17,00,000 in respect of Stamps met with opposition. The money was required for the continuance and completion of the new stamp factory at Nasik.

Sir Purshotamdas Thakurdas said that this demand had been rejected by the Assembly last March and he saw no reason why the House should change its opinion. The building, Sir Purshotamdas urged, was put up for a department which was going to be run on a commercial basis and the charge should be debited to capital and not to the revenue account. Mr Rangaswami Iyengar supported Sir Purshotamdas. The Finance-Member thought that the House did not want the building to stop and therefore he had given the House another opportunity of restoring the grant. His own view was that the building ought to be charged to revenue. But without going into it fully, he advised the House to agree to the motion to charge the amount to revenue, because it was started under revenue and because the only effect of changing it to capital would be a purely book-keeping one except that they would have to include next year a sum for amortization of this charge. Mr Shanmukham Chetty inquired as to what would be the possible difficulty if the amount was charged to capital and not to revenue account. Sir Basil Blackett explained that it would mean re-opening last year's account, which was rather difficult. Mr Shanmukham Chetty said that the fact that the 8 lakhs which had already been spent had been charged to revenue did not afford any serious objection to the item now being included in the capital portion and out of the 15 lakhs of rupees which was still to be spent on the purchase of paper 8 lakhs might be transferred to capital account. Sir Basil Blackett said that if Government did make an adjustment they ought to do it in a straightforward manner and not arrive at it in a round-about way which would amount almost to misappropriation in form though not in intention. The demand was rejected by 42 votes against 38.

On the 17th September Sir Basil Blackett again brought up a new demand for the same amount before the Assembly to be charged to capital and not to revenue. He added that the Government had considered the views expressed by the House and understood that those views were intended not to challenge the principle that departmental buildings should normally be charged against revenue and borrowing should take place only for purposes which were strictly reproductive, but that in the present case the House had taken the view that the buildings should be regarded as being for reproductive purposes. "The Government attach very great importance" said the Finance Member, "to that principle and they desire it to be understood that, in accepting the view of the House in this particular matter, they are simply accepting the view that this case is one which can be regarded as the case of a building which is for reproductive purposes, and the general principle that buildings for departmental purposes should be charged to revenue is not infringed." Sir Purshotamdas Thakurdas and Mr Jamnadas Mehta welcomed the Finance Member's compliance with the wishes of the House and the demand was agreed to.

### *Legislation*

The previous numbers of this publication have shown the increasing attention which the Legislature has had to bestow on legislation. During the last Simla Session again legislation played a very important part and, as Appendices I and II will show, 21 Bills were passed and 12 official and 11 non-official Bills.

were pending at various stages on the termination of the Session. Some important Bills were rejected and therefore do not appear in the Appendix. More detailed reference to these will be made later. Non-officials had given notices of a considerable number of Bills but they were crowded out and could not be reached. The length of time legislative measures occupied was, indeed, considerable and their importance will appear from the account which follows. During the September Session 1924 a Bill to amend and consolidate the law relating to Govern-

ment and other Provident Funds was passed by the Council of State, but, when it came to the Assembly, an amendment was carried omitting the

Provident Funds Act,  
XIX of 1925

provision designed to remove doubts as to the right of the Government or the Railway to withhold from a subscriber who had been dismissed from service that portion of his provident fund which consisted of contributions credited to his account by the employer. During the Delhi Session the Bill, as amended by the Assembly, went again to the Council of State and an amendment was made restoring the provision omitted by the Legislative Assembly, with the addition that the dismissal which might result in the aforesaid contributions being withheld, should be a dismissal for reasons specified in this behalf in the Rules. This amendment was considered by the Assembly on the 25th August 1925 when Mr. Tonkinson pointed out in what respects it was an improvement on the previous Bill. Mr. Tonkinson also showed that corresponding provisions were to be found in regard to pensions of the various services in India and existed in other countries such as England and Australia. Mr. Lohokare, Mr. Joshi and Mr. Acharya were opposed to the change while Mr. Cocke claimed that the right of the employer was a right recognised all over the world. Sir Charles Innes regarded the present Bill as more liberal than the one on the Statute Book, but in response to an appeal by Mr. Ramachandra Rao he said that he was willing to go through

Provident Funds Act,  
(Amendment) Act,  
XXVII of 1925

the rules and to consult the Railway Advisory Committee with regard to them. The amendment was agreed to by 56 votes against 52. On the 14th September a small Bill, more or less of a formal character intended to make a few verbal changes and to remove certain formal defects in the Provident Fund Bill, as passed, was also carried.

By an Act passed in 1923 the limit of exemption in regard to Civil Court attachments and sales in respect of salaries of public officers,

Code of Civil Procedure  
(Amendment) Act

railway servants and local authorities had been raised. It had since been pointed out that this provision affected adversely the working of Co-operative Societies in advancing loans, particularly to people on small holdings. A special amendment of the law in regard to creditors of Co-operative Societies had been suggested to restore the former limit of attachment and sale, and by a Bill amending section 60 of the Civil Procedure Code this change was secured.

The Indian Limitation (Amendment) Bill was introduced to remove a doubt raised by the Bombay High Court as to the application of

Indian Limitation Act, XXX

Article 5 to suits under Order 37 of the Civil Procedure Code and also on the motion of the said High Court to extend the period of limitation provided in that article. The Civil Justice Com-

mission also were in favour of both proposals, though they suggested



one province to another, it seemed necessary that he should, while in the other province, be required to notify his residence to the authorities in that province duly constituted and appointed for the purpose. With this object the Criminal Tribes (Amendment) Bill was passed.

It will be remembered that during the last Delhi session Sir Hari Singh Gour's Bill, as amended by the Select Committee, raising the age of consent for unmarried girls to 14 and for married girls to 13

Indian Penal Code  
(Amendment) Act, XXIX  
of 1925

was rejected by the Assembly in view of certain amendments which had been then made still further raising these ages and Sir Alexander Muddiman had expressed his intention of introducing a measure dealing with the subject embodying the changes which Government, in the present state of public opinion, considered desirable. This measure came up during the last session and was strongly opposed at various stages by the orthodox members while amendments were also moved to bring the measure more into conformity with advanced opinion. For example, Sir Hari Singh Gour wanted to raise the age to 15 in extra-marital relations but his as well as other amendments fell through. Similarly, conservative amendments, such as those moved by Messrs M. K. Acharya and Rama Aiyangar were also rejected and the Government's proposals representing, as they did, a compromise between the two schools of thought were accepted. When, however, the Bill went up to the Council of State that House passed an amendment moved by Mr Karandhikar providing that notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife would not be rape, although the wife had not attained the age of 13 years, if the man was married to her before the date on which the Act came into operation and she had on that date attained the age of 12 years. The Assembly was later on asked to agree to this amendment, Sir Hari Singh Gour objected to it but the majority of the House saw the force of the alteration and agreed to it.

With the object of bringing under the direct control of the Central Government the administration of salt in the Madras and Bombay

Salt Law (Amendment)  
Act, XXII of 1925

Opium (Amendment)  
Act, XXVII of 1925

Presidencies hitherto administered through the agency of the Provincial Governments a Bill entitled the Salt Law (Amendment) Bill was passed. A Bill identical in principle with this one, the Opium (Amendment) Bill, dealing with the cultivation of poppy and the manufacture of opium and designed to take the administration of opium under the direct control of the Central Government was also passed.

A number of measures emanating from the Department of Commerce were also placed on the Statute Book. The most important of these

Bamboo Paper Indus-  
try (Protection) Act,  
XXV of 1925

was the Bamboo Paper (Industry) Protection Bill, intended to provide for the fostering and development of the bamboo paper industry in British India. This was the natural outcome of

the acceptance by the Assembly of the resolution dealing with that subject which has been referred to in the earlier pages. The Council of State endorsed the view taken by the Assembly and the bill was supported by Sir Maneckji Dadabhai, Sir Deva Prasad Sarvadhikary, Mr Ramadas Pantulu, Mr Manmohandas Ramji, Colonel Nawab Sir

Umar Hayat Khan and Lala Ram Saran Das. It was significant that though Sir Arthur Froom sounded a note of warning no one in the Council opposed the Bill which was carried without a division. Another

Coal Grading Board measure of importance passed was the Coal Grading Board Bill designed to give effect to the chief recommendations of the Indian Coal Committee and to meet some of the causes which have been militating against the recapture of foreign markets by the Indian coal industry.

Cotton Transport (Amendment) Act, XXXIV of 1925. By the Cotton Transport (Amendment) Bill a provision was inserted in the Cotton Transport Act 1923 which would allow Local Governments to prohibit by notification the import of cotton or a specified kind of cotton into an area by rail, road, river and sea or by any one or more of such routes as the law previously stood.

Indian Carriage of Goods by Sea Act, XXXI of 1925. The prohibition must have been of import by all routes. By the Carriage of goods by Sea Bill, standard conditions of bills of lading were adopted in conformity with the decision arrived at by the International Conference on Maritime Law held in 1922.

It was felt necessary to take the power to exempt in certain ports the small native craft from the obligation of having a pilot on board before it moved. An amendment was therefore

Indian Ports (Amendment) Act, XXXVI of 1925. proposed under the Indian Ports (Amendment) Bill asking that power be conferred upon the

Governor General in Council, where section 31 (1) of the Act applied, to exempt by notification from this provision sailing vessels of any measurement to be specified in such notification.

On the motion of the Law Member a formal measure the Repealing and Amending Bill, was passed to amend certain enactments and to repeal certain others.

A Bill to consolidate the law applicable to intestate and testamentary succession in British India, prepared by the Statute Law Revision

Indian Succession Act. Committee, was passed. This consolidating Bill having repealed the Indian Succession Act of 1865, Sir Arthur Froom withdrew his Bill to amend section 27 of that Act.

Mr Sethna's Bill intended to remove doubts as to whether assignments without consideration of certain actionable claims, *e.g.* policies,

Transfer of Property Act, etc., had to be registered or not came up for consideration. Mr Chadwick pointed out certain drafting defects and proposed an amendment to which Mr Sethna agreed, and the Bill was passed. Also passed the Bill

and consideration of the measure was adjourned. A Bill was introduced to define and limit the powers of certain courts in punishing contempt of court. The motion to refer it to Select Committee was strongly opposed. Pandit Motilal Nehru objected to the attempt to define

Contempt of Courts Bill 'contempt' but said that, if Government were prepared to limit the Bill to the main objects, he would support the reference to Select Committee.

The Assembly by 82 votes against 8 agreed to the motion. The report of the Committee was presented. The Indian Naturalisation Bill was also referred to Select Committee. The Home Member had moved that the Bill be taken into consideration when Mr Duraiswami Aiyangar moved an amendment referring it to Select Committee. His object, he said, was to make such provision as would ensure to Indians abroad the same privileges as they were prepared to give to foreigners in this country.

Indian Naturalisation Bill definition of a 'British subject' so as to suit Indian interests. Mr Ramachandra Rao referred to the unsatisfactory position as regards naturalisation, particularly in America, and remarked that, while certificates of American citizenship had been withdrawn from Indians settled in California, he saw no reason why Americans should be allowed in India to enjoy all the privileges of British citizenship.

The Home Member explained that the Bill had already been before a Select Committee of the House which had reported on it in July 1923. The object of the Bill was to enable naturalisation of those persons who did not, as required by the Imperial Act, know English and therefore could not be naturalised under it. Sir Alexander emphasised that the position of Indians abroad was not relevant to this Bill and in the matters which had been brought in and into which the Select Committee was asked to go an attempt was being made to acquire a jurisdiction which the Assembly did not possess because it could not revise or otherwise interfere with an Act of Parliament. The amendment was, however, passed by 59 votes against 42.

In order to give effect to certain recommendations of the Civil Justice Committee, an Insolvency (Amendment) Bill was introduced

Insolvency (Amendment) Bill which proposed to extend to the town of Karachi the provisions of the Presidency Towns Insolvency Act, and amend section 104 of that Act on the lines of the amendments made some years ago in section 70 of the Provincial Insolvency Act and amend both the Insolvency Acts on the lines of the English Bankruptcy Act so as to omit the requirement of notice before prosecuting an Insolvent. The Bill was circulated for opinion.

A Bill to amend sections 102 and 103 of the Civil Procedure Code introduced and referred to Select Committee. It seeks to give effect to the recommendations of the Civil Justice

Code of Civil Procedure (Amendment) Bill Committee, to raise from Rs 500 to Rs 1,000 the amount or value of the subject-matter of the original suit cognisable by a Court of Small Causes, which second appeal would not lie and to extend the jurisdiction of High Courts to determine issues of fact in cases where the finding of the lower appellate court is vitiated by an error such as is described in section 100 (f) of the Code.

On the motion of the Home Member a Bill further to amend the Legal Practitioners Act, 1879, was circulated for the purposes of eliciting opinions thereon. This Bill also seeks to give effect to the recommendations of the Civil Justice Committee to deal with the evil of touting.

Legal Practitioners  
(Amendment) Bill

Mr Rangachariar took advantage of the motion to enquire as to what was happening to the recommendations of the Indian Bar Committee. The Home Member regretted that legislation regarding which Mr Rangachariar had enquired had been delayed but pointed out that the report of the Indian Bar Committee had been circulated and one Local Government had, only last May, sent in its reply which needed close consideration.

A Bill was brought in by the Home Member to provide for the punishment of corrupt practices by or relating to members of legislative bodies constituted under the Government of India Act. When the motion to take it into consideration came up there was a desire in the House to refer it to Select Committee to which the Home Member did not object and the Bill was accordingly referred to the Select Committee.

Legislative Bodies Cor-  
rupt Practices Bill

The pressure of official business was so heavy that very little progress was made with non-official Bills. No new non-official Bills were introduced and within the limited time which the Assembly could devote to such Bills as were left pending at the end of the Delhi Session, much

Indian Registration  
(Amendment) Bill

could not be accomplished. Diwan Bahadur T. Rangachariar's Indian Registration (Amendment) Bill, which he had introduced early in 1924 with the object of enabling Local Governments to authorize Sub-Registrars to hold an inquiry where the execution of certain documents was denied by the executants, came up for consideration and he moved that it be referred to Select Committee. It was opposed, among others, by Pandit Motilal Nehru who said that a large proportion of the deeds executed in Upper India were by *pardah nashin* ladies and, when Judges of high authority had found it difficult to decide whether a document had or had not been executed, a Sub-Registrar would not be the proper person to adjudicate upon such a matter. The Home Member pointed out that the Bill was permissive and Local Governments could be trusted to exercise the power with discretion. Mr Rangachariar's motion was agreed to by 47 votes against 41.

Mr Joshi moved to refer his Maternity Benefit Bill to Select Committee. Sir Sivaswamy Aiyer thought, that though the object of the

Maternity Benefit Bill

Bill must command sympathy, as it stood, the Bill was full of numerous defects not only of drafting but of substance. Mr Cosgrave opposed the motion as unnecessary and undesirable as far as the Tea Estates in Assam were concerned. Sir Bhupendra Nath Mitra also opposed the motion. The Government of India, he said, shared the sympathy in the fullest degree but they felt that such a measure was only one of the items in the various nation-building services in regard to which India was still far behind the principal countries of the world. The Government of India were bound to be guided by the conditions prevailing in India, and not by action taken in other countries. The opinions received from Local Governments showed that the majority of them were distinctly opposed to the fundamental principles of the Bill.



and Sir Bhupendra did not find any evidence that there was a considerable feeling on the part of the general public all over the country in support of the measure. One of the fundamental principles of Mr Joshi's Bill was compulsion and it had been strongly objected to. The evils which Mr Joshi sought to remedy did not at present exist in India in any appreciable degree to justify the measure. It would not be practical to enforce in all the provinces legislation on the lines recommended in the Bill. The effect of the legislation might be to compel employers to adopt measures which might have harmful results on female labour. The defects in the Bill were such that they could not be remedied by an examination by a Select Committee. Government therefore considered the Bill unnecessary and undesirable and the Member for Industries and Labour based his opposition to Mr Joshi's motion especially on the ground that it would imply the acceptance by the Assembly of the fundamental principles of the Bill. The motion was also objected to by Mr Chalmers, Mr Charties and Mr Clow and after having been discussed on the 26th and 27th of August 1925 was rejected by 51 votes against 47.

<p>Sir Hari Singh Gour wanted to refer his Special Marriage (Amendment) Bill to Select Committee but it was opposed by Mr Acharya, Pandit Madan Mohan Malaviya, Mr Aney, Mr Krishnaswamy Iyer, Sir Purshotamdas Thakurdas, Moulvi Muhammad Yaqub and Mr K C</p>	<p>Neogy and rejected His motion to circulate for the purpose of eliciting opinions thereon his Hindu Trusts (Validating) Bill was also strongly opposed and rejected, Sir Chimanlal Setalvad characterising it as exceedingly mischievous and Mr Tonkinson and Mr Duraiswami Aiyanger</p>
<p>declaring that it was absolutely opposed to public policy and against the interests of the Hindu community</p>	

Three Bills which were rejected deserve special mention. On the 3rd September Mr Ramadas Pantulu moved in the Council of State that the Bill to repeal certain special enactments supplementing the ordinary criminal law, as passed by the Legislative Assembly, be taken into consideration. Mr Crerar, in opposing the Bill, remarked that it did not take into account the realities and the facts of the present situation and had not received the calm and careful consideration it deserved. It had been urged that the laws which Mr Patel's Bill sought to repeal were repugnant to accepted canons of jurisprudence. But it was only hard necessity and a very real sense of a very real danger which compelled Government to keep them on the Statute Book. Very serious and persistent attempts had been made to introduce into India propaganda and machinations against her peace and security. The Frontier was especially exposed to the dangers of foreign hostility and were it not for the vigilance of the officers concerned and the legislative weapons they had in reserve, this foreign hostility would pour in at every port in the form of subversive propaganda, incitements to murder and rebellion and in the concrete form of illicit arms and illicit ammunition. The present course of events in China had amply shown the extent of the Communist danger and attempts had been made and were being made by the Communist element in China to secure connection with India.



show that under the King's Regulations it was not necessary that a Magistrate's permission should be obtained before fire-arms were used His Excellency compared the martial law instructions with the provisions of the Bill, said that it would result in transferring responsibility from one who knew to one who did not know, that provisions for giving a warning already existed, that it was doubtful if the mover of the Bill had thought out the legitimate conclusions of his provisions and that by rendering the soldier liable to prosecution without sanction it would not be right to tie the hands of the man on whom the final responsibility lay. The Bill was supported by Mr Ranga Iyer, Mr T C Goswami, Mr Muhammad Yaqub and Mr M A Jinnah, while Colonel Crawford and Mr Vijayaraghavachariar opposed it. The Bill was taken into consideration and after certain amendments had been made, particularly at the instance of Sir Sivaswamy Aiyer, it was passed without a division. On the 15th September Mr Ramadas Pantulu brought up this Bill before the Council of State. The motion that the Bill be taken into consideration was opposed by Mr Crerar and His Excellency the Commander-in-Chief on behalf of the Government. Sir Maneckji Dadabhoy declined to be a party to any legislation which would curb the ordinary statutory powers for the maintenance and preservation of law and order. Colonel Sir Umar Hayat Khan said that the Bill showed the length to which some of the politically-minded people could go and proved that the Indian Legislature without the Council of State was like a ship without mooring. Mr P C Dutt also opposed the motion and said that the House could not do a worse disservice to the country than by passing it. Mr Ramadas Pantulu's motion was negatived without a division.

On the 14th September the Home Member moved that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration. This proposed certain amendments of the Code of which one alone, the amendment of section 123 was objected to by the Assembly. Prior to the amendment of section 123, Criminal Procedure Code, a court had the discretion to award rigorous or simple imprisonment under section 109 of the Indian Penal Code. As a result of the change made in 1923, in default of security, simple imprisonment alone could be awarded. Local Governments had unanimously written to say that simple imprisonment was inadequate and the Government of India, agreeing with them, had been desirous to amend the Criminal Procedure Code.

the various divisions of imprisonment in England and showed that imprisonment without labour was practically non-existent there. He also referred to provincial administration reports on jails and said that jail authorities thought that nothing could be more absurd or demoralizing than sending men under section 109 to do simple imprisonment and thus provide them with board and lodging without their having to pay for it. It was bad for the jail, bad for the man concerned and a waste of public money. Sir Henry Stanvon supported the measure and Mr V. Raju and Mr Belvi opposed it. The Home Member assured the House that there was not the slightest political flavour about this clause and it had been introduced because every Local Government and jail authority had said that the change made in 1923 had rendered section 109 useless. The clause was rejected by 52 votes against 21. Though the other clauses of the Bill were passed, in view of the change the Assembly had made, the Home Member did not move that the Bill be passed.

### *Conclusion*

The Session ended on the 17th September. The Assembly had indeed had a strenuous time. The length of the sittings, the resolutions which were discussed and the legislative business which was transacted all alike testified to the importance of the Session.

The end of the Session also marked the end of the life of the first Council of State, and it was in the fitness of things that His Excellency the Viceroy personally addressed the House and bade it farewell. His Excellency reminded those who had followed the fortunes of the Government of India Act, 1919, from the time of its introduction in the House of Commons that as originally planned the Council of State was intended to be a body in which the Government of India would be assured of a majority, for it was to consist of the Governor General and 56 members, of whom 28 might be officials. Had this conception prevailed, it would have enabled His Excellency to take part in the deliberations of the House. But the Joint Committee on the Bill had revised the proposal and "reconstituted the Council as a true Second Chamber." As His Royal Highness the Duke of Connaught, in his speech on the inauguration of the Indian Legislature, had emphasised, the intention of Parliament was "to create a true senate, a body of elder statesmen endowed with mature knowledge, experience of the world and the consequent sobriety of judgment. Its functions will be to exercise a revising but not an overriding influence for caution and moderation, and to review and to adjust the acts of the larger Chamber." As finally constituted the Council consisted of 60 members, of whom 33 were elected and of the nominated not more than 20 were to be officials. Of the nominated members, the representative of Berar was for all practical purposes an elected member and the number of officials had been reduced as low as 17. "I cite these facts for the purpose," said His Excellency "of showing that, as the discussions on the form of the new constitution developed, it was decided that the Government of India should surrender its majority and trust the Council of State, and further that after the constitution of the Council of State was finally settled by Parliament the Governor General advanced again on the path of trust by refraining from nominating the full number of officials allowed by the Act and nominating non-officials in their place." It had been a *son*

gratification to His Excellency and to his Government that this policy of trust had been amply justified and at the same time the nominated non-officials had not, His Excellency observed, sacrificed their opinions to their position. His Excellency said

“The division lists of this Council furnish an abiding record that the nominated non-officials have not hesitated to vote against Government at the dictates of their reason or their conscience. On the other hand, they have not shrunk from shouldering the burden of temporary unpopularity, which too often is incurred by those who, undisturbed by waves of passion and prejudice, have applied a calm and sober judgment and have voted with Government when they were convinced that the higher interests of the country required it, when they were satisfied that these interests were being faithfully served by Government. The nominated non-official members have, in fact, exercised their functions with the same sense of independence and responsibility as the elected members of the Chamber, and I can therefore, in what I am about to say regarding the work of the Council of State as a whole, deal with all the non-official members of this Council as forming one body of men with firm principles and broad outlook, keenly alive to the responsibilities of their position as members of a Second Chamber in which they command an overwhelming majority.”

His Excellency also referred to the representative character of the Council consisting, as it did, of Zemindars, leaders of learned professions and men who had attained success in the region of commerce and industry and expressed his gratitude to them for the valuable time they had liberally given and the personal sacrifices they had made in order to attend the Council. Lord Reading paid his “tribute of admiration and gratitude to the official members of this Chamber, who have throughout striven ardently and persistently to ensure success for the Reforms and have given their valuable assistance in the deliberations of this Chamber.” His Excellency expressed his great regret that, in the comparatively short space of less than 5 years, circumstances should have compelled him to appoint no less than 3 Presidents. But his only justification for this course lay in the interests of the public service of India. On each occasion His Excellency had sought to give again of the best that was available for his selection. “To Sir Alexander Muddiman, your first President,” said His Excellency, “we owe much, for he occupied the Chair for a sufficiently long time to carry the Council well on its way, and to establish for it a worthy tradition of dignity and courtesy and no less a record of high efficiency. He will be remembered as the first President of this new Chamber who set an example which others will assuredly be glad to follow.” Hardly had His Excellency had time to congratulate himself on the success of Sir Alexander Muddiman’s successor, Sir Montague Butler, when he became Governor of the Central Provinces, and His Excellency had to surrender “another of the trusted Secretaries of Government—Sir Henry Moncrieff Smith, who now presides over your deliberations with the serenity and distinction fully expected by all who had become familiar with his capacities and with his efforts since the inception of the Reforms.” Referring to the Leader of the House, Sir Narasimha Sarma, who would soon be retiring, His Excellency said

“We shall miss him very much, not only at our meetings but generally in the work carried on by the Executive Government. No Viceroy ever

had a more loyal, honest and independent-minded colleague who, whilst never forgetting his obligations as a Member of the Council, always remained true to his duty to his Indian compatriots and faithfully presented their views in a manner that not only commanded great respect, but also deserved and received the closest attention. He is a genuine Indian patriot and a true servant of the Empire, with a broad outlook on human affairs aided by a zeal for research in the dusty pages of blue books and the keen and fearless judgment of a man whose paramount desire is to advance the interests of India and the Empire."

In the measures which had come before the Council His Excellency said it had "shown alike qualities of fearlessness and sobriety." Whilst you have been loth to interfere with measures which did not involve any vital principle, you have not hesitated to reject measures which in your calm and considered judgment and according to your conscience threatened the foundations of good government and would not truly serve the best interests of India. You have performed these difficult functions (of a Second Chamber) with a due sense of responsibility and have brought your judgment to bear upon the problems that confronted you with the sole desire to serve your country to the best of your ability." Looking back upon the history of the Indian Legislature during the past 12 years His Excellency noticed that there had been a large measure of agreement between the component bodies, a result which was as creditable to the one Chamber as to the other. There had no doubt been differences, often concerning practical measures which were being discussed on their merits, and these had usually been found capable of adjustment. It was mainly on questions of Finance and of the Constitution that the Chambers had found themselves in disagreement. Referring to the resolution on the Reforms Inquiry Committee report which had been accepted by the Council of State, His Excellency said that it would be duly considered by his Government together with the amendment which had been carried by the Legislative Assembly. "The conclusions of the Indian Legislature," said His Excellency, "must be considered as a whole, attributing due weight to that part which proceeds from the Council of State, and I believe, represents no inconsiderable proportion of the intelligent and stable elements in the country." Concluding his speech His Excellency bade farewell to the Council in the following words:

"In times of special difficulty, as times of transition must necessarily be, you have rendered a high service to your country by fulfilling to the best of your judgment the responsible role assigned to you by the Constitution. You have dealt with the important affairs which have come before you according to your conscience and in a spirit of good sense and moderation. As I understand your views, you stand for progress and the political advancement of India as rapidly as can be achieved with due regard to the dictates of prudence and wisdom and the special conditions appertaining to India. It is upon these broad-based foundations that you desire to construct the road to advance and to erect the superstructure destined to crown the efforts for the greater contentment and happiness of the Indian people. In the knowledge that you have throughout acted in full accordance with these ideals and have been animated by a lofty sense of duty and a steadfast determination to advance the interests of India, I regretfully bid you farewell and cordially wish you all happiness."



# India's Parliament

## PART I.

### LEGISLATIVE ASSEMBLY

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*Thursday, 20th August, 1925*

#### INAUGURATION OF THE SIXTH SESSION OF THE COUNCIL OF STATE AND THE THIRD SESSION OF THE SECOND LEGISLATIVE ASSEMBLY

HIS Excellency the Viceroy with the Presidents of the Council of State and the Legislative Assembly having arrived in procession, HIS Excellency took his seat on the dais

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**H E** the Viceroy Gentlemen of the Indian Legislature, after a considerable separation from you—a separation on this occasion to be measured not only in point of time, but also by distance in space—it gives me special pleasure to meet you, the Members of the Indian Legislature, once more and to welcome you to the labours of another Session. My first endeavour must be to gather up the threads of administration in India and to mention a few of the topics which have been engaging attention during my absence, or which are likely to occupy your interest in the immediate future. It is a source of gratification to me that in my absence no anxious crisis arose in India, and that the administration was carried on smoothly and efficiently under the capable guidance of HIS Excellency Lord Lytton.

But though the Ship of State has been sailing in calm waters, the hand of death has lain heavy in recent months on the friends of India, both English and Indian. Within the last year, and within a few months of each other, two Englishmen—Mr Montagu and Lord Curzon—whose names will endure conspicuous in the roll of the great English statesmen who have loved India and devotedly served her—one as Secretary of State, the other as Viceroy—have passed away. They approached Indian problems not always from the same angle of vision. I had the advantage of many discussions with them before I left for India. They were of the greatest assistance in preparing me for the duties of my office. They were the last to bid me good-bye when I first set out for India. Alas! they were both absent from the circle of friends to greet me on my return. More recently the death of two distinguished Indian political leaders—Mr Das and Sir Surendranath Banerjea—both men of marked personality, intellectual capacity and energetic patriotism, though of different views, has left India in mourning. We have to mourn too the death of the Maharaja Scindia of Gwalior, one of the greatest of Indian Princes, a wise ruler and a true patriot whom I was proud to count among my friends. I pay also my tribute of regret for the death of two Members of the Legislature—Khan Bahadur Shams-uz-Zoha and Sir Leslie Miller.

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And last I must mention the loss which has befallen me and my Government—nay more, India and the Empire—in the sudden and tragic death of the late Lord Rawlinson, one of the most eminent soldiers who have served this country in the high office of Commander-in-Chief. There is no need for me to repeat to you on this occasion the story of his military achievements, his fame as a soldier, both in peace and war, is far extended and will long endure. But it is fitting that I should take this opportunity of commemorating the special service which Lord Rawlinson rendered to my Government, and to India, through his qualities of sympathy and breadth of outlook, and through his prudent and efficient administration of the military services of this country. Members of both Houses of the Legislature will moreover recall many occasions on which they received at his hands the most distinguished consideration. It was ever his desire to satisfy their interest in, and increase their knowledge of, the Army and Army Administration. It is especially true to say that in all his work as Commander-in-Chief and as Member of my Executive Council his constant aim was to secure that which he sincerely believed to be the best both for the India of the present and the India of the future. I deeply mourn the loss of a personal friend and comrade.

“Souls of the righteous are in the hands of God,

There shall no torment touch them”

When Lord Rawlinson died, his successor, Field-Marshal Sir William Birdwood, though already designated, was not in India, and in such a situation my Government were fortunate in that they could for the time being command the services of General Sir Claud Jacob, of whom it is sufficient to say that his fitness to fill the breach rested upon 42 years' service in the Indian Army, the high reputation as a Commander of troops which he gained during the Great War, his still recent experience as Chief of the General Staff in India, and last but not least upon the respect and confidence in which he is deservedly held throughout the Army in India. To-day it is my privilege and pleasure to extend a cordial welcome to Sir William Birdwood who in the last few days has returned to India and assumed his high office. He is the first Commander-in-Chief in India to hold at the same time the exalted military rank of Field-Marshal, a distinction which he has earned by services to the Crown of an exceptionally high order, both in India and elsewhere. Sir William Birdwood is, however, so well and widely known as to stand in no need of further recommendation from me. I welcome him also as a colleague in my Council and wish him good fortune and good guidance in the discharge of the responsible duties upon which he has entered.

Gentlemen of the Legislative Assembly, in pursuance of the provisions of the Government of India Act, you have been called upon, for the first time, to elect your President on the 22nd day of this month and it is therefore fitting for me on this occasion to express my own and my Government's appreciation of the services which have been rendered, not only to the Assembly, but also to the Provincial Legislative Councils throughout India, by the first President of the Legislative Assembly. The Legislative bodies as established under the Government of India Act were so different in their composition from those set up under earlier Acts of Parliament that it was thought right to make

provision for a President who should be indubitably independent of the Government, a person clear of all possible suspicion of being even unconsciously biassed in favour of Government. At the same time it was recognised that on the standard set by the first Presidents of the different Legislative bodies, and more particularly on the standard set by the first President of the Legislative Assembly, the future of the Assembly and of the Legislative bodies in the Provinces would greatly depend. It was essential that the first President of the Assembly should be a man liberally versed not only in the written rules, but also in the unwritten tradition of the Mother of Parliaments, so that, in the time allotted to him by the Statute, he might establish in this Assembly a high standard of public order, a true appreciation of the dignity and responsibilities of the Chamber, and a perfect confidence in the rigid impartiality of the Chair, and further that he might foster in every Member of the Assembly a deep sense of regard not only for the rights but also for the feelings of every other Member of the Chamber, a sense of regard which should remain unaffected even in the extreme heat of party controversy. Gentlemen, to my great regret it has not been my privilege to attend your proceedings in person, but in addition to your printed proceedings, a daily report reaches me of your doings, and alike from these sources and from the testimony of official and non-official Members of this Assembly and also of the distinguished visitors from many parts of the world who have witnessed your proceedings, I am able to say with confidence that Sir Frederick Whyte has discharged to the utmost the very heavy responsibilities laid upon him as first President of the Legislative Assembly, and I welcome this opportunity of tendering to him my thanks and the thanks of my Government for his very notable achievement. If I may be allowed to offer advice to his successor, it is that he hold fast to the tradition which has been established for your Chamber by your first President, and to this end I ask you gentlemen of the Assembly to give to your new President in his difficult task the generous co-operation which you have always accorded to your first President.

I pass now to a brief review of the affairs of India. I am glad to say that our relations with neighbouring States remain cordial and that no questions of importance are outstanding. I wish I could report an equal absence of controversial matter in regard to the position of Indians in South Africa. At the moment I should not be well advised to say more than that my Government is watching the situation closely and is still in communication with the Government of South Africa.

In internal affairs we have been faced recently with some industrial depression. Fortunately this has not been associated with any failure of Indian harvests, and exports have been well maintained. The depression in Indian industries appears to be a phase of a world-wide movement. Throughout the world industries are experiencing the difficulties of adjusting themselves to the new post-war conditions. India could not expect to escape. India has in fact been fortunate that this change has not come to her so quickly or so severely as in many other countries, and owing to a succession of good harvests there is a reserve of buying power in the country. Nevertheless the process of adjustment is difficult and the condition of several of these industries will come before you. Public attention has recently been directed to the great cotton mill industry which affects

period of unexampled prosperity and expansion is now experiencing a reaction. My Government has been watching the position closely, and I have consented to receive a deputation early next week from the Mill-owners of Bombay and Ahmedabad. In the circumstances I will reserve any further observations. Four reports by the Tariff Board, marked by that thoroughness which I have learned to expect from its work, have been published, and the conclusions of my Government on three of them have been made public. A fifth report dealing with steel has just been received and proposals in regard to it will be placed before you in the course of the Session. You will also be asked to consider a Coal Grading Bill framed on the recommendations of the Coal Committee and designed to rehabilitate Indian coal in overseas markets.

My Government, while giving due attention to industries in the restricted sense of the term, are determined, so far as circumstances permit, not to neglect the interests of what is really the greatest of all Indian industries, namely, agriculture. I know from my discussions with the Secretary of State that my Government can rely upon his most cordial support of this policy. The direct responsibility of the Government of India for agricultural development in the Provinces ceased with the inception of the Reforms. In view, however, of the paramount importance of agriculture as the basic industry of the people of India, of the improbability of Provincial Governments being in a position to undertake research on the scale required and of the necessity for co-ordinating activities in the wide field of agricultural development, the Central Government must continue to play an important part in agricultural progress. Their present agricultural policy is mainly directed to fostering research and undertaking work which is outside the normal ambit of Provincial activities by reason of its all-India character. With the improvement this year in our finances we have been able to increase very considerably our activities in the sphere of agriculture. The Agricultural Institute at Pusa is expanding its work of research, which is the basis and condition of all progress. That work has already borne remarkable fruit. New varieties of crops (I would instance sugarcane and wheat)—the product of careful research and experiment in our laboratories and experimental farms—have added within the past few years crores of rupees to the wealth of the agriculturist, and these achievements point the way to still more wonderful possibilities. Agriculture in India must in the main depend on cattle for its motive power, and what is of vital importance is not an increase in the numerical strength of cattle, but an improvement in quality. This problem is being steadily attacked from more than one angle in the cattle-breeding and dairy farms under the Government of India.

But apart from direct activities I conceive that one of the most important functions of a Central Government in respect of a great all-India interest is to facilitate the co-ordination of Provincial effort. My Government have for some time past had under consideration a proposal for the establishment of an all-India agricultural organisation which would help towards co-ordinating the activities of the various Provincial Departments of Agriculture, promote research, agricultural education, co-operation and other established aids to agriculture and serve as a medium for agricultural propaganda throughout the country. With the object of obtaining the views of representative and responsible authorities from all parts of the country before a definite scheme is formulated, it has been

decided to refer this proposal to the Board of Agriculture at its next meeting, which will be held at Pusa in December of this year. It is hoped that, in addition to the regular Provincial representatives, Ministers of Agriculture of the various Provinces will also be able to attend on this important occasion.

The action taken by my Government on the report of the Civil Justice Committee presided over by Mr Justice Rankin will be a matter of interest to you. I have no doubt that many of you have studied that report and recognise the wide extent of the ground it covers. Many of the recommendations can be put into effect by Local Governments, High Courts and the presiding officers of the Courts of justice throughout the country. In some cases we have decided to reduce the proposals of the Committee to the concrete form of Bills which will come before you during this Session. In others we have addressed Local Governments and High Courts, and shall prepare Bills for your consideration after we have received their opinions. I have mentioned before the great importance which I attach to the work of this Committee and the value of the reactions which must follow on improvements in the machinery for the administration of civil justice. I wish now to express my high appreciation of the work which has been performed by the Chairman and members of the Committee and by the co-opted members, non-official as well as official.

Last January I announced that, in view of the opinion expressed in the Assembly regarding the need of an economic inquiry, my Government had decided to appoint a small Committee to report on the material which exists for holding an inquiry into the economic conditions of the people of India, the feasibility of instituting an inquiry of this character and the manner in which it could be carried out. This Committee has been at work during the last few months under the Chairmanship of Sir M. Vishveshvaraya, and has just completed its report which is now in the press. It is the intention of Government to publish the report at an early date, and the Committee's recommendations will be examined without delay. I must express my appreciation of the expedition with which the Committee have dealt with this complicated subject.

When I addressed you last I dwelt at some length on the difficult questions of currency and exchange, and I announced the intention of Government to appoint an authoritative Committee to consider the subject of the rupee exchange as soon as world economic factors appeared sufficiently stable to justify formulation of a new policy. Since that time, although conditions are in some respects still obscure, there has been one event in this field of outstanding importance, namely, the return of England to the gold standard. With the return of sterling to a parity with gold there is fulfilled one of the most important conditions requisite for a fruitful re-examination of our Indian problems.

The position has been considered in consultation with the Secretary of State, and I am now able to announce that His Majesty the King has approved the appointment of a Royal Commission on Indian Currency. The terms of reference to the Commission will be—

“ To examine and report on the Indian exchange and currency system and practice, to consider whether any modifications are desirable in the interests of India, and to make recommendations ”

It will be seen that the terms of reference are wide enough to admit the consideration of all important questions of currency policy, and that the membership of the Commission also ensures adequate representation of Indian opinion. I am glad to inform you that the Right Honourable Hilton Young will act as Chairman and the following gentlemen have consented to serve as members of the Commission —

Professor J C Coyajee,  
 Sir Maneckji Dadabhoy,  
 Sir Reginald Mant,  
 Sir Rajendra Nath Mukherji,  
 Sir Alexander Murray,  
 Mr W E Preston,  
 Sir Henry Strakosch,  
 Sir Purshotamdas Thakurdas, and  
 Sir Norcot Warren

The Joint Secretaries will be Mr Aiyar of the Indian Finance Department and Mr Baxter of the India Office. It will be apparent that every care has been taken to obtain an independent and impartial examination of this important subject. The Commission will, it is expected, commence work next October.

There is one other important inquiry to which I must refer. The Government of India recently appointed a Committee which has come to be known as the Indian Sandhurst Committee. The investigations of the Committee will embrace, not only the whole subject of the best and most suitable means of training Indians to hold worthily and efficiently His Majesty's Commission, but also the question of what measures should be adopted in order to attract the best type of Indian youth, in greater numbers than are at present forthcoming, to a military career. I attach great importance to the enterprise upon which the Committee are embarking. If they are successful, it may be said that they will, to the extent of their achievement, help India forward in the path of progress. The Committee is widely representative of different branches of Indian opinion, and I am glad to note that in this important inquiry we shall have the assistance of the leader of the Swarajist Party. I must express gratification that he is prepared to contribute to the elucidation of the problems involved, but I should not think of seeking to press the implication of his action further than he himself wished. His own statement of the reasons for the course he has adopted should in my judgment preclude any more extended inferences.

The establishment of a Public Service Commission is being actively pursued in correspondence with the Secretary of State, and I have every hope that it will shortly be possible to make an announcement detailing its functions, its constitution and its *personnel*. I am aware that great importance is attributed to the Commission both by the public and the members of the Public Services. I believe that it will confirm for the Services that sense of security in the conscientious discharge of their duties to which they are justly entitled, and that it will provide an independent and impartial tribunal for the examination of grievances. I believe also that it will be a visible and concrete guarantee of the principle, on which all good government is founded, that the ultimate object of administration is the interest of the State and the service of the public.

Among other matters of importance with which my mind was naturally much pre-occupied at the time of my departure for England, though even then I recognised and welcomed tendencies of a happier augury, was the situation relating to the religious endowments of the Sikh community, and the various issues connected with it, and during my absence I watched the progress of events with keen and sympathetic interest. It is a matter of great gratification to me that, on my return, I find that the hope of improvement in the situation has been realised or is in a fair way to be realised. During the whole course of the events and controversies which have engaged public attention and sometimes, I regret to say, disturbed the public peace in the Punjab, the Government of the Punjab and my own Government have been animated by a constant and single desire to promote by every means in our power a stable, an equitable and a friendly settlement of all the matters in issue, which shall do justice to the claims of all the interests legitimately concerned and which, in particular, shall restore the traditional relations of good understanding and mutual confidence between Government and the Sikh community. It is my belief that those relations, glorious in war and "no less renowned" in peace, whatever misunderstandings have arisen and whatever unfortunate incidents have occurred have never in truth suffered more than a partial and temporary disturbance, and I welcome every prospect of their complete renewal and consolidation.

The immediate and tangible fruit of these changed conditions has been the enactment of a measure by the Punjab Legislative Council, on the motion of a private member belonging to the Sikh Community, and in the formulation of which the Punjab Government rendered assistance which has been warmly acknowledged, to regulate the management of the Sikh religious endowments. This measure has received so large, and I may say, so overwhelming a preponderance of support from the interests directly or indirectly concerned as to leave no doubt of its general acceptance and it has received the assent of the Governor General. The Government of the Punjab have taken the opportunity of the passing of this measure to make a generous offer to those persons under detention in that Province for certain offences arising out of the agitation, and I trust that wise counsels will prevail in regard to it.

I count as one of the palpable signs of a hopeful and auspicious future, the recent conclusion, with the co-operation and assistance in the necessary arrangements of the authorities of the Nabha State, of the ceremonial reading of the Sikh scriptures at the Gangsai Gurdwara in that State. The policy scrupulously observed by Government has been to interpose no obstacle, there or elsewhere, to the free observance of religious ceremonies in such manner as not to conflict with other well established rights and liberties. I will say no more on a subject which might revive old controversies than that I have every hope and confidence that, with the conclusion of the ceremony I have referred to and the release of persons detained in the Nabha State, we may all now unite to treat this incident as a closed chapter.

A Bill will be laid before you in the course of the present Session, the object of which is to validate such of the provisions of the Punjab Act as are beyond the competence of the local Legislature, and I am confident that a measure which offers so fair a prospect of a practical and equitable settlement of a momentous and complex issue and which is

supported by so weighty a body of public opinion will receive also your ratification and endorsement

Much has been achieved, and we may survey with legitimate satisfaction the progress recorded, rendering due acknowledgments to the sympathetic consideration and the indefatigable labours of His Excellency Sir Malcolm Hailey and the Government of the Punjab, and to the common-sense, mutual forbearance and public spirit of all concerned which have made it possible. I trust that your deliberations will complete a legislative act which will not only afford a just and satisfactory solution of the matters it expressly contemplates, but will also contribute powerfully to the re-union and reconciliation of diverse aims in other spheres of interest which we all have equally at heart. If we persevere and redouble our efforts in the path of mutual forbearance and understanding, I have every confidence that the future will crown our labours.

This concludes my observations on a review of affairs in India as I find them on my return. My main purpose in requesting your attendance to-day was in order that I may address you specially upon the events connected with my visit to England. When I received the invitation from His Majesty's Government to return to England, I gladly availed myself of it. I had been in India over four years and had seen several changes of Government in England during this short period. A General Election in the Autumn had just installed a new Government in office—the fifth with which I have had the privilege of serving. It seemed to me eminently desirable in the interests of India, that I should take the opportunity for the first time afforded to one holding my high office. During my stay in England I had many conferences and discussions with the Secretary of State, and I also had the great advantage of representing the situation in India, as I conceived it, to the Prime Minister and also to the Cabinet. Towards the end of my visit the Secretary of State made an important pronouncement in the House of Lords upon Indian affairs. The speech undoubtedly aroused unusual interest in Parliament and the country. It was the first review by the Secretary of State of the general situation in India since he had assumed his high office, and it had been deferred until after the conclusion of the conferences with me. In addition, it possessed a special attraction by reason of the forceful personality and intellectual capacity of the Secretary of State. You will have observed that His Lordship was careful to state that he was not announcing, or purporting to announce, decisions or conclusions. Nevertheless, it cannot be doubted that his survey of the situation formed an important event in the history of political development in India. It was made after careful study of the problems and after full consideration of the views which I had presented in numerous conferences as the result of my experience in India. The speech in the House of Lords was followed almost immediately by a debate in the House of Commons. I do not know whether many of you have had the opportunity of studying the report of the debate, which was of special interest to India. It showed, as it appeared to me, a growing appreciation and a sympathetic understanding of the complexities and difficulties of Indian political problems. You will have gathered from the Parliamentary reports that the general lines of the pronouncement were not seriously challenged in the British Parliament. I confess that I have therefore been somewhat disappointed, on a perusal of reported speeches of political leaders in India and of articles in the public Press, to find

that the speech has been received in some quarters in so critical a spirit. The impression on my mind is that its importance and value to India have not been sufficiently appreciated. I look upon the Secretary of State's address as a message of sympathetic encouragement to India, at least to those who are desirous of advancing to responsible self-government within the British Empire. It is an emphatic indication that political opinion in England stands firm upon the declarations made in 1917 and in 1919 without distinction of political parties.

I shall endeavour to place before you a survey of the situation as it presents itself to me to-day. I trust I am not too optimistic in my belief that a temperate examination of the problems in an atmosphere free from suspicion and prejudice may lead to more earnest and sincere co-operation and good-will from Indian politicians. I cannot hope to convince all sections of those who take an interest in public affairs. But if we are to advance towards a solution of our problems, we must get rid of the elements of bitterness and suspicion, which breed their evil progeny alas ! too rapidly, and try whether the spirit of good-will may not prove a solvent for difficulties which have hitherto seemed to defy solution.

I would ask those who may differ from me to bend their minds for a moment towards me, and to weigh observations based upon the experience of a life-time and applied to Indian affairs by one who claims to be devoted to India and her interests.

I came to India charged with the duty of helping to establish the Reformed Constitution and of assisting the country along the road of advance mapped out in the declaration of August 1917. The first great measure in pursuance of the new policy had been embodied in an Act of Parliament. It was unfortunate that this new system was launched at a period when the atmosphere was charged with bitterness and animosity. It is unnecessary to recapitulate the difficulties it encountered from the moment of its birth. They are still fresh in our minds. It suffices for the moment to recall that it met with determined opposition from certain sections of the community, directed at first from without the Councils and latterly also from within. Remember that this was a newly-fashioned Constitution—indeed a constitutional experiment without precedent—designed to meet the peculiar complexities of the situation in India. It had no doubt its imperfections, but it was the product of deep thought and the outcome of a genuine desire on the part of the British Parliament to give effect to the patriotic aspirations of Indian political leaders and to initiate a system of self-governing institutions. Much of the criticism directed against the Constitution was clearly in the nature of a protest against the refusal to grant complete self-government at one step. But the ranks of the critics were also swelled by those who argued that the system did not fulfil the intentions of its authors and suffered from obvious defects which should be removed. These charges deserved examination, and after three years' experience of the new Constitution my Government, with the approval of His Majesty's Government, decided that inquiry should be made not with a view to altering the structure, but for the purpose of determining whether any measures could be devised whereby the system might work more smoothly and efficiently. These problems were examined by the Reforms Inquiry Committee, to whose labours both my Government and all those who are interested in the working of the Constitution owe a debt of gratitude. I regret that the



members of the Committee were unable to come to unanimous conclusions. The Majority have made a series of recommendations which taken broadly appear to be acknowledged as suggesting improvements on the existing practice. They are fashioned with a genuine desire to improve the present machinery. I do not of course claim for them infallibility or deny that they must be examined in detail with some care. My Government are prepared to accept in substance the view of the Majority that the Constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them. My Government cannot at present commit itself to all individual recommendations or to the form or method by which they should be carried into effect, inasmuch as there has not been sufficient time for full consideration of them with the authorities concerned, or even by me with my Council. An opportunity will be afforded to the Legislature for debating this policy, and every consideration will be given to the views presented to us before final conclusions are reached.

The Minority, consisting of gentlemen whose views are entitled to receive, and have received, the most careful examination of myself and my Government and—let me add—of Lord Birkenhead, have stated that they have no objection to many of the proposals of their colleagues, but they were unable to accept the report of the Majority because they desired to progress more rapidly and by different methods. In their opinion no substantial results will be produced by the process of amendment of defects recommended by the Majority. Briefly, the Minority ask whether the Constitution should not be put on a permanent basis with provisions for automatic progress in the future, and they are in favour of a system of Provincial autonomy. They press for an early inquiry with a view to fulfilling these aspirations. To the subject of Provincial autonomy I shall return later. It is sufficient to say at this stage that the Minority, mindful of the terms of reference, do not present it as a practical and fully considered scheme, but content themselves with putting it forward as an ideal. The steps for its attainment clearly demand further investigation. In effect therefore the recommendations of the Minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution. The issue at the moment between them and the Government of India is largely one of time for the appointment of a Commission. It has been laid down in the Government of India Act that in 1929, that is in four years from the present time, there must be a full inquiry into the Constitution such as the Minority desire. But the Minority say that they wish the inquiry to take place at an early date. I understand their impatience, but my Government and I, after most carefully weighing their views, have reached the conclusion that the moment for an inquiry has not yet arrived.

The inquiry contemplated by the Act will be a genuine and an impartial inquiry. Nothing will be prejudged. It will proceed upon the facts of the situation as ascertained upon the evidence produced to the tribunal. And here I must remind you of the words of the preamble to the Government of India Act, which have already been quoted by the Secretary of State. "And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility." If those are to be the principles to guide the Commission

to its judgment, I cannot think, as a friend of India, that it should commence its inquiries immediately. If the judgment of the British Parliament were to be pronounced upon the present evidence, I fear that it could but result in disappointment. I have not abandoned hope that as the days proceed evidence of a spirit of co-operation may yet be forthcoming from that large section of political opinion which has hitherto stood aloof, and that it may be manifested that the political attitude of those who have hitherto declined to shoulder any responsibility may undergo a change. I know that there is a school of thought in India which preaches incessantly that nothing is to be won from England save by force or threats. Believe me, that is a profound mistake, and if persisted in, cannot but embitter the relations of the two countries. The Reforms took their origin in England in a spirit of good-will, not of fear of optimism, not of opportunism. The history of the last few years has damped the hopes and dimmed the expectations of many of those in England who wish India well. But those hopes can be rekindled, those expectations can be recreated, if India shows the hand of friendship instead of menace.

But while I am sure that the present would be a most inappropriate moment to hold the statutory inquiry, I wish to re-emphasise what was made abundantly plain by the Secretary of State in his speech that there is no special sanctity attaching to the year 1929. The re-examination of the Constitution may take place at any time, not later than 1929, when the British Government are persuaded that there has been genuine co-operation of the responsible Indian political leaders in working the existing Constitution, and when sufficient experience of these new and still largely untried conditions has been gathered to form the basis of a considered judgment and to enable proposals for the future to be made with some confidence. Is it not worth while to make a real attempt to wipe out past controversies and to unite in an effort to test the system at present established? In the Secretary of State's words—"We desire and request good-will, nor shall we be niggardly bargainers if we meet with that generous friendship which is near and dear to our hearts." The desire to help India along the road indicated remains unchanged throughout General Elections and new Administrations. I had opportunities of discussion with many leaders of political thought in England of varied political views. Throughout I was impressed on the one hand by the sympathetic good-will manifested towards India and Indians generally, and on the other, by the determination not to be hurried by threats into premature concessions. I have long been confident that it is through friendly co-operation alone that India will advance to the ultimate goal desired. The events of the recent years and my visit to England have served to confirm this view. I most earnestly commend it as a policy to the Legislature and to the country.

I believe that the present moment is specially favourable for a combined effort to work the Constitution. Since the Committee reported, two new factors have supervened which should be an encouragement to a new departure, and are well worthy of your consideration. Among the many handicaps under which the new system has suffered, none perhaps was greater than the financial stringency which dogged its early years. In administration a policy without resources is barren. Too often the Ministers found that from lack of money they could not give effect to their ideas in the field of government transferred to their charge. Hampered by financial difficulties they were exposed to the criticism of having

achieved nothing. Fortunately, the period of financial stringency, the legacy of the War, seems to be passing away. This year my Government has been able to make a notable beginning in the remission of Provincial contributions, and thereby to place at the disposal of various Provinces additional resources, a large part of which it may be hoped will be available for the amelioration of social conditions and for nation-building activities—in short for those branches of the administration which have been transferred to popular control. I trust that these new resources will strengthen the position of Ministers.

There is one other change of importance which I must not omit to mention. I confess I have been surprised to find that so little public attention has been directed to one of the proposals of the Lee Commission, the practical effect of which will soon begin to make itself felt. It had been one of the complaints of Ministers that the organisation of their superior services through which their departments were administered lay not in their hands, but in those of the Secretary of State. It was the latter who recruited them, and who determined their rates of pay and their numbers. We are now taking steps to give effect in this respect to the principle laid down by the Joint Select Committee of Parliament, that Ministers should have the fullest opportunity of managing that field of government which was entrusted to their care. Recruitment by the Secretary of State for the Indian Educational Service, the Indian Agricultural Service, the Indian Veterinary Service, the Buildings and Roads Branch of the Indian Service of Engineers and in Bombay and Burma for the Indian Forest Service has ceased. In these important branches of the administration the Ministers will be authorised to start building up by new recruitment their own Provincial Services, subject only to such restrictions as experience shows to be necessary for safeguarding the integrity, the independence and the efficiency of Public Services. The problem presented by the Indian Medical Service is more difficult, but here too the principle of establishing Provincial Medical Services has been accepted, subject to certain conditions which are still under consideration. The combined effect of these changes will become increasingly apparent every year, and I am sure that what seems to me at present to be an inadequate appreciation of their importance will rapidly disappear. I cannot pass from these observations on the future of the Services without placing on record my high appreciation of the loyal assistance which has been rendered by the members of the Services and will, I am convinced, continue to be rendered in the working of the new Constitution. Without their help, difficulties already serious enough would have been stupendous, if not insuperable.

For the reasons indicated above, I believe that the system of Dyarchy will be found to work in future more efficiently and smoothly, and Ministers will in these respects no longer have the semblance of ground for complaint that the power and responsibility entrusted to them are impaired by other influences. In any event, I have no doubt it is too early yet to pronounce a final verdict as to failure or success. On a careful survey of the whole situation and study of the reports of the Local Governments I come to the conclusion that Dyarchy, whatever its deficiencies may be, has so far proved more successful in its operations than some of its friends and most of its critics could have expected. We shall be in a far better position and in a comparatively short time to form a final judgment, if the system is worked in the future with general good-will and co-operation.

In a notable passage in his speech Lord Birkenhead disclaimed on behalf of the British Parliament any monopoly in the art of framing Constitutions and he invited Indians to contribute, if they could do so, their own solution. He invited them—to quote his words—“to produce a Constitution which carries behind it a fair measure of general agreement among the great peoples of India.” He gave the assurance that such a contribution to our problems would nowhere be resented, but would on the contrary be most carefully examined by the Government of India, by himself and by the Commission whenever that body may be assembled. The time which may elapse before re-examination of the Constitution, whenever that may happen, could not be better occupied by public men in India than by devoting serious practical thought to these problems. The British people, working on their own experience, have set up institutions in India based on Western models. The aspirations of Indian politicians, as I understand them, are directed towards the establishment of responsible self-government within the Empire as the ultimate goal. Responsible self-government based on Parliamentary institutions is the product of Western thought and experience. It is often contended that we are seeking to arrive at the final destination by imposing ideas on India which are alien to its genius. We are not wedded to our own particular methods of attaining our object. Whatever may be proposed will be the subject of most careful examination by the Government of India, and eventually by the Commission before it is submitted to the British Parliament. The Commission should know whether there is any general consensus of opinion among the various classes and communities of India as to the direction in which the development of self-government within the Empire should be sought. Should we persevere in our proposed course or is there an alternative line of advance which would be more in accordance with Indian ideas and would receive the support of the numerous interests concerned? If any alternative methods are to be suggested, much hard thinking is required. Constitutional problems are not solved by a phrase. Account must be taken of unparalleled complexities—diversities of race, diversities of religion, striking diversities of intellectual development and a social organisation which separates classes with a rigidity unknown in any other great country. It must be kept steadily in mind that it is a primary duty of Government to provide security against external aggression and to preserve peace and order within its territories, and in India it is imperative that adequate means should be devised for the protection of Minorities. No greater problem in self-government has ever been set before a people. No problem has ever more assuredly required accurate and practical thinking.

There are many in India at the present moment who hold the solution lies in Provincial autonomy. The principle that local affairs should be administered by Local Governments is one that commands general acceptance. But if we are to avoid disintegration—a danger that the history of India constantly emphasises—there must, in my judgment, be a strong Central Government capable of exercising a legitimate degree of supervision and control. The relations of such a Government to a number of so-called autonomous Provincial Governments have not yet been thought out. It can scarcely be contemplated even by the most ardent friends of Provincial autonomy that there should be nine or more, and as some contend many more, separate and independent Provincial Governments entirely free in all directions from supervision and control. Before any

scheme of Provincial autonomy could be established, the functions that should be entrusted to them and the degree of supervision and control to be exercised over them must be explored with patience. Here is an unlimited field of work waiting for those who, like the Minority of the Reforms Inquiry Committee, believe that the present Constitution must be radically amended. Meantime close contact with the practical working of the present machine will provide a useful corrective against too great an obsession with theory, which history shows to be a danger ever lurking in wait for the drafter of Constitutions.

Before I close I would draw attention to an attitude not uncommon among politicians that the programme and conditions of advance laid down in the preamble of the Government of India Act are a humiliation to India in that the prescription of successive stages and the testing of each stage by results is a reflection on the capacity of Indians. Be it remembered that we are engaged on a problem new to India and new also to the British Parliament. I think the nature of the problem as it presents itself to the British people is not fully appreciated by those who express themselves as humiliated. They assume that the path to self-government lies along a broad metalled road, and that if they could only be freed from the impediments and restrictions imposed by the present form of government, they could run safely, rapidly and directly to their goal. To my mind the problem presents itself under a different figure. I think rather of a man picking his way through unexplored regions towards his destination which glimmers faint, but clear in the distance. He halts on firm ground and seeks the next spot to which he can safely entrust himself. A rash step may engulf him or delay his progress indefinitely. His advance may not be rapid, but it is well and surely planned. As he advances, experience teaches him to distinguish more certainly and quickly the firm ground from the treacherous surface. And so he wins to his ultimate goal.

Gentlemen, if I may strike a personal note, the natural term of my period of office is rapidly approaching, and my future opportunities of addressing you, the Members of the Indian Legislature, must necessarily be few. I have spoken to you to-day from the conviction of my heart—I trust without rousing a tinge of bitterness or animosity. I have expressed to you the thoughts of one who, whatever mistakes or errors he may have committed, has a warm affection for India and a deep devotion to her interests. For these reasons I have been desirous of carrying you with me along the only avenue which, in my judgment, can lead to the Promised Land—to the proud heights of India's destination. It is my earnest prayer that India, with the co-operation of all of us—of every race, community and interest—that wish her well, may avoid the pitfalls that beset her path and win through to the goal to which her fate is set.

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*Monday, 24th August, 1925.*

**[WELCOME BY SIR FREDERICK WHYTE TO THE NEW,  
PRESIDENT]**

**Sir Frederick Whyte:** Mr President, the Message which I have just read from His Excellency authorises you now to take my place in this Chair. You have been long enough in this Chamber to know that the Chair has both great opportunities and great obligations, and you

have already practised the business of chairmanship in another place in such a manner as to justify us in the expectation that the hand which was so well practised in the management of public business in the Bombay Corporation will not lose its cunning in this greater arena

I should like to bespeak for you, Mr President, the same consideration and co-operation from all quarters of this House which I have never failed to receive. The relations between the Chair and the Legislative Assembly are one of the most important features in the Indian Constitution and it lies in the successful co-operation between Mr President and all his colleagues to answer some of the difficult questions entailed in the future progress of India. I commend my successor, Mr President Patel, to every Member in this House and I bespeak for him that co-operation and cordial regard which it has been my privilege to enjoy. (Applause) And one further thing I will bespeak for him and that is the same unfailing assistance given at times when the assistance perhaps was not easy to give, by the officers of this Chamber upon whom, though perhaps Members do not always realise it, a very heavy duty falls. (Applause) Mr President, you will find Mr Secretary and his assistants very essential to your comfort and to your welfare, and I am quite sure that if I make my appeal to them, as I do now, they will accord to you the same assistance and co-operation which I have received.

Mr. President, it is a matter of pride and pleasure to me to invite you to take my place in this Chair.

Mr President (the Honourable Mr V J Patel) Sir, I rise to thank you most sincerely for the welcome you have extended to me on this occasion. I do not think it is proper for me at this stage to make any reply to the speeches that will be made hereafter after I take the Chair. At present what I am concerned with is to express on my behalf and, if I may be allowed to say so, on behalf of every Member of this Assembly, both officials and non-officials, Members of every section and of every Party, our high and grateful appreciation of the excellent work that you have done during the last four years. (Applause) You were called upon, Sir, to take this office at a very difficult time and you were called upon to guide the deliberations of a peculiarly constituted Assembly, an Assembly in which we have got a majority of elected Members, who could not control and have no power to control the executive. Therefore, the traditions and conventions of the popular Assembly, namely, the House of Commons, could not possibly be applied in full under all the conceivable circumstances that may arise in this Assembly. Your task was, therefore, rendered much more difficult. You had to adjust those traditions and conventions to the circumstances of this peculiarly constituted Assembly. It will be a matter of satisfaction to you, Sir, to know that from every section of this House you will have the congratulations of Members for the work you have done.

The position that you occupied hitherto was the position given to you by His Excellency the Governor General. The position which your successor will occupy will be the position accorded to him by the elected and the nominated representatives of this Assembly, namely, the whole House. In spite of the fact that you were a nominated President, it is pleasing to note that you have not only satisfied His Excellency the Governor General and the Members of His Excellency's Council, but also the elected representatives of the people. (Applause.) Sir, you have

created precedents and you have established conventions and it will be the duty of your successor to be guided by those precedents and those conventions

Sir, I do not think it is necessary for me at this stage to detain this House any longer, but you will permit me to mention one or two conventions and precedents which you have created. I want to mention them particularly because, when I read them up, they appealed to me. In the first three years of this Legislative Assembly, I was not a Member and, therefore, those who were in this Assembly at that time will be able to speak with authority on your work. So far as I am concerned, I used to read the proceedings of the last Assembly with keen interest, although I had boycotted this Assembly. I was attracted to the Assembly and I was also attracted to the proceedings of the Assembly because I have taken an interest in it ever since I was a Member of the old Imperial Legislative Council, and I did not give up and have not given up that interest even now. Therefore, Sir, when I was reading those proceedings in the first year of your office, I was in the very first year delighted to find that you, Sir, allowed the convention of an annual Finance Bill to be introduced by the Government into this Assembly. Although the Government of India Act does not require the Government of India to bring before the Legislature any such measure, it was you, Sir,—and I sincerely believe it was you—who helped materially in persuading the Government in establishing a convention of that character.

The second thing with which I was much more delighted was this—that, when the first Finance Bill was under discussion in this Assembly, you allowed certain amendments to the Finance Bill involving or suggesting new or alternative proposals of taxation. That was, to my mind, a great step forward. It has been generally said that proposals for new taxation must always emanate from the Crown, but you gave a liberal interpretation to the whole matter and allowed certain proposals by way of amendments suggesting new or alternative forms of taxation. That was a very advanced step, in my opinion, and I was so pleased at that moment when I read those proceedings that I was half inclined to give up non-cooperation and come to this place. (Applause.)





think you will not forget us, Sir, when you have left us, I think at times your spirit will return to this House and you will watch over our debates with the interest that you have always displayed in them, and I hope you will find they are being conducted in an atmosphere similar to the atmosphere you have done so much to inculcate and promote (Applause)

**Pandit Motilal Nehru** (Cities of the United Provinces Non-Muhammadan Urban). Sir, on behalf of the Swaraj Party I rise to bid you farewell, and in doing so, I associate myself with the remarks which have been made by Mr President Patel and the Honourable the Home Member. They have more or less exhaustively dealt with the various aspects of your office, and the admirable manner in which you have discharged its duties. You have set, Sir, a very high standard, which it will be well for your successors to follow. You have discharged your duties with conspicuous ability, becoming dignity, and unfailing courtesy and fairness (Applause). When I say that, Sir, I think I say all that can be said of any President of an Assembly. We have worked under your guidance and deliberated under your guidance in this Assembly for nearly two years now. That is a long enough period to be replete with memories, and this is an aspect which I wish particularly to touch upon as it has not been mentioned by my predecessors. Those memories must of necessity be both pleasant and unpleasant. To expect them to be invariably pleasant would be to expect you or us, or both of us, to be more than human. It is in the very nature of things that in a House, the total strength of which is over 140, there should occasionally arise slight differences of opinion about the procedure followed or the rulings given by the Chair. What matters is not that such a difference should arise from time to time but the feeling that it leaves behind in its wake. I think, Sir, I can most confidently say that if any such difference has happened the feeling left behind has invariably been of complete goodwill on both sides. Sir, I do not wish to detain the House and you at any great length but I wish to conclude my remarks with expressing the regret of my Party on parting with you. The duty that we have to perform to-day is both a pleasant and an unpleasant one and when we are dealing with the unpleasant part of it—namely the parting with you, we have but one feeling and that of sincere regret. The pleasant part of it is to give you our sincere appreciation of the work you have done in an ungrudging spirit, and I hope, Sir, brief though my remarks have been, you will take it that the depth of the sentiment behind those remarks is not to be measured by their brevity. With these words, Sir, I wish you God speed on behalf of my Party and success in all your future undertakings.

**Mr M A Jinnah** (Bombay City Muhammadan Urban). Sir, the moment has arrived when we have to part with you as the President of this Assembly over which you have presided now for nearly five years with dignity and honour to yourself and to any House. Sir, I would quote the words of the Joint Parliamentary Committee, the kind of President that they desired should preside over this Legislature is described in the following words

“ He should be qualified by experience in the House of Commons and a knowledge of parliamentary procedure, precedents and conventions. He should be the guide and

adviser of the presidents of provincial councils and he should be chosen with a view to the influence which it is hoped he will have on the whole history of parliamentary procedure in India."

Sir, I entirely agree with the Honourable the Home Member that the day was a new landmark in the constitution of India when you were selected by the late Secretary of State for India, Mr Montagu, for whom India has the profoundest respect. His selection of you has been justified to the fullest. You brought to bear upon the procedure of this House your parliamentary experience, your knowledge of the precedents and conventions of the Mother of Parliaments, your natural abilities. During the time that I have had the privilege and the honour to come under your presidency, you have displayed a sound sense of judgment, great presence of mind, quick decision and always with the best of intentions to arrive at the fairest and most impartial decision.

Sir, your work was not seen only when you presided over this Chamber in that exalted Chair, where you undoubtedly maintained the dignity of the House and where the severity of your detachment from every single individual Member was accompanied by a complete attachment to the House and full sympathy, while you had directly under your control the entire pulse of this House, but behind the scene, in your little room, where that severity which is essential to maintain the dignity and order of the House was no longer to be seen, there was your presence genial, kind, affectionate, ready to help and extend uniform courtesy to every Member of this House.

Sir, your work has been, if I may say so, a most fascinating work. I believe—and I have had the opportunity of watching the legislative chambers not only of this country but others, including France—I believe, Sir, and I say this in all sincerity, not to flatter you because you are going away and I am not afraid of you any more, that you would have presided over any Parliament with credit to any nation or any Parliament. But I think the work would not have been so fascinating as the work that you had to perform during the last five years in that Chair. There you would have been tied down by the procedure, by the conventions and the precedents which have already been established and opportunity for originality would have been rare. Here you had a far more fascinating work, a creative work, where you have created precedents, where you have established precedents. You will be remembered, you will be honoured, and your name as the first President of the Indian Legislature, which must in time grow to its full stature, will be handed down in the history of India. We shall be parted from you, but I hope that wherever you may be you will remember India. It is no small wrench to part with you and I am sure this House deeply regrets that we have to

**Sir Darcy Lindsay** (Bengal European) Sir, by reason of my connection with the Assembly from its first meeting my colleagues have chosen me as their spokesman to address to you a few parting words and never has a task been entrusted to me that I valued so much. My only fear is that I may not do full justice to it. I remember, Sir, in the early days of 1921 when we met, many of us for the first time, from all parts of India, a little doubtful possibly of each other, but you, Sir, by exercising that tact with which you are so richly endowed very

soon put us at our ease and we became united in striving to work together in living up to your example and ideals. By the end of the Session we were a happy family, looking forward to meeting again in Simla at the next Session. Ever courteous, ever kind, firm when necessary but never severely and always ready to help those who want your assistance, you have proved yourself, Sir, the ideal President, and we on our part have done our best to please you and thereby give so small return for all you have done for us.

What I said about the first applies equally, if not more so, to the second Assembly. For, when we met in Delhi at our first meeting there is no denying there were doubts and suspicions of each other in our minds. You, Sir, by the atmosphere you created very soon dispelled all this and we came to understand one another's views. We may, at times, Sir, say nasty things in the Assembly, but when we go into the Lobby the scene is changed and we are good friends. We realise that in the heat of debate we do not always mean all we say. Speaking personally, I have made many, what I hope will be, lasting friendships and I think others have done the same. It is by these means and by understanding one another and by toleration of each other's views that we can best help India, and to you, Sir, much of the credit is due for bringing this about. That we are more than sorry to lose our great philosopher and friend—may I say, our Guru—is very certain. For the fact that the rules require that we should elect from among ourselves our new President and any departure from the intention of that rule might have been misunderstood, I am sure, Sir, that your friends in the House would have liked to pay you the compliment of asking you to accept the Chair until the term of the present Assembly ends. The best that we can now offer you, Sir, is an undertaking that we, by co-operation with the new President, will do all we can to maintain the high standard you have set us and preserve the dignity of proceedings that were so dear to your heart. We wish you Godspeed and all success in any work that you may take up. We would be best pleased if ere long you were to return to this country, the India you love so well, and take up an appointment even more exalted than the one you have just now vacated. Sir, officially we bid you farewell but our affection will remain for ever.

**Diwan Bahadur T. Rangachariar** (Madras City Non-Muhammadan Urban). Sir, it is a matter of peculiar pleasure and gratification to me to be allowed to take part on this most historic occasion of bidding farewell to the first President of the Indian Parliament. Sir, I have been associated with you as a humble Member of this Assembly, sometimes as one of the Panel of Chairmen, and lastly as your Deputy President. I know how difficult it is to discharge the duties appertaining to the high office which you had the honour to occupy, and which you have occupied with such dignity and ability that you have rendered the task of your successor for a long time to come a task so difficult to follow. Sir, I well remember the days when we first entered this House, both officials and non-officials alike, with distrust, distrusting each other and really sceptical as to the potentialities of this Legislative Assembly,—we on our part believing, although we were sincerely willing to co-operate, that it was not an adequately guided you in the discharge of your duties, it is no wonder you have, on the other hand, mistrusting the non-officials not knowing what they were likely

to turn out to be, whether they were going to be instruments really for the advancement of the country or really whether this new experiment, as they called it, to put India on the road to self-government or responsible government, was going to be a success or not. Both sides were sceptical. Sir, this House can be truly described to be a house of magic presided over by the mistress of co operation calling to her aid two hand-maidens, reformation and transformation—words which can be writ large on the front doors of this House. This was a House of reformation in the first Assembly. This is a House of transformation in the second Assembly. In the first Assembly, the officials were willing to co-operate, were willing to recognise merits in the non-officials, were willing to do them justice, were willing to see what merit underlay the recommendations made by this House, and the non-officials began to see in the officials a growing desire to understand the true spirit of the suggestions which were made on this side of the House. Within six months we became an attractive House, we brought down Sir William Vincent from the Upper House, we brought down Sir Denys Bray from the Upper House, we brought down Sir Purshotamdas Thakurdas from the Upper House. So attractive we became to people within our near neighbourhood. But, Sir, we became attractive also to those people who first looked with scorn and antipathy upon this House. I remember, Sir, they thought this House was fit for dogs and asses, and they let loose dogs and asses against us as competitors, when we sought the honour of being elected to this House, with placards round their necks, "Vote for me." This House became so attractive to them that those gentlemen who had boycotted this House found themselves unconsciously attracted to it. Sir, so we reformed ourselves, we reformed others. We became an attractive House. Then the second stage came. It brought transformation with it. I need not enter, Sir, into much detail as to how the transformation has taken place and is taking place. It may be truly said of this House—although it may be but a figure of speech in other matters—that those who came here to curse have remained to bless. He who entered the House to wreck it is now going to guard it. Sir, who is the agent chosen by the mistress of the House to work such wonders? It is you who preside over this House?

Sir, what can it be which has rendered this House so attractive not only to people in India but to people abroad, people who have been brought up for centuries in democratic institutions? They have been attracted to this spot, they have made this a place of pilgrimage, I know from personal knowledge that people have flocked to Delhi and Simla to see the work of the Assembly. Sir, how is it that this first new experiment in this country has succeeded so well? It is in no small measure due to the firm and yet gentle hand which guided it, to the ability you displayed in the discharge of your duties, to the great knowledge of practice and rules which you brought with you, and, Sir, to your abiding interest in the true welfare of India. You did not take a narrow view of the capabilities of my fellow-countrymen. You soon realised, Sir, that any doubt, any scepticism about the capacity of Indians for self-government was not well based on any solid reasons. You did not share the doubts of the official ranks as to the capacity of the people of this country to advance to the goal of self-government. You soon realised the potentialities of the race to which we have the honour to belong. Sir, that being the spirit which guided you in the discharge of your duties, it is no wonder you have succeeded so well. It is the good spirit which really commands success, and

I appeal to the official benches, to all, to discharge their duties in the same sympathetic spirit, willing to recognise merit, willing to ignore failings. And if they guide themselves in the discharge of their duties in the way in which you have done, Sir, you will have set a good example to them.

Sir, we will miss you very greatly. The fact that we are going hereafter to be presided over by a patriotic countryman of ours is no consolation for the great regret that we feel at your going. Sir, we are proud of the incoming President. But, Sir, we are prouder of you. As the first President of the Assembly you have made your mark not only yourself, but you have made the whole world take an abiding interest in the way in which we are progressing. We are attached to you for what you have done. We wish you *bon voyage*. We wish you a long life and a glorious life.

**Sir Frederick Whyte** Mr President, and Gentlemen of the Legislative Assembly, I do not know how to thank you for your kind treatment of me during these past five years, nor for this climax of generosity in the speeches just delivered by the Leaders of all Parties in the House. The work of the Chair has an absorbing interest of its own, and I am glad to confess that, though at times it presented difficulties, I have always found it congenial. Indeed, I believe that the longer and more constantly one attends the sittings of the Legislative Assembly, the greater does their interest become, and so, in one respect, my tenure of the Chair has been its own reward, both in the pleasant co-operation which I have received from Members in all quarters of the House and in the intrinsic interest of the task itself. And, now, you have all added to the President's reward such a volume of generous appreciation that I find it difficult adequately to express my gratitude.

You have been good enough to say that you will miss me. I shall miss the Assembly more, perhaps, even than I know now, for in these five years I have grown greatly attached to it, not only attached to the Assembly as an institution, but to the individual Members who form the human quality in it. And, moreover, I have watched with pride how the country generally has gradually come to realise the importance of this Chamber and how, slowly but surely, it has laid hold upon the imagination of India.

Those who have co-operated to secure this achievement are, I believe and hope, entitled to the praise of their fellow-countrymen, and to a very natural feeling of elation and pride. We have only to look back to those stormy days in which the Legislative Assembly was first brought into being as one of the most important instruments of the new order—and well indeed do I remember those days—to realise how slender was the thread by which the life of India's Constitution hung five or six years ago. But do not be afraid that this exordium will lead the Chair to tread forbidden political ground. It would, indeed, be a strange thing if the first President, as his last act, were to break the unwritten but inviolable rule that the Chair knows no politics. (Applause) And, therefore, it is only as a reminiscence—perhaps not without a lesson concealed in it—that I recall the clouds in the sky when I first took office in India. And, so, let me turn from the threshold of dangerous ground and, with your forbearance, sound briefly a more personal note.

I am more sorry than I can say to leave this Chair, which also means leaving India. The experiences I have had, the friends I have made, and

I hope I may add, the lessons I have learned, have combined to make my sojourn in India a time of great interest and pleasure. Perplexities there have been and, as my Honourable Colleague and successor will speedily find if he does not know it already from them, the Chair can never be wholly free. There are times indeed when the Chair is a very lonely place, when the task of holding the even scales of an impartial judgment seems almost too delicate. Let me quote you the words in which an English statesman described that task many years ago

“ The occasions are frequent and occur unexpectedly, when the Speaker is called upon unaided, and alone, and at once, to decide upon difficult points which may have supreme consequences—points which require not only accurate knowledge of the forms and procedure of the House, but which demand the greatest courage and firmness to apply these precedents to the exigencies of the moment ”

That is a high standard, Gentlemen. But I have the words of an even greater voice to give you regarding a public office such as that of President

“ Certainly, Gentlemen, it ought to be the happiness and glory of a representative to live in the strictest union, the closest correspondence, and the most unreserved communication with his constituents. Their wishes ought to have great weight with him, their opinions high respect, their business unremitted attention. It is his duty to sacrifice his repose, his pleasure, his satisfactions, to theirs,—and above all, ever, and in all cases, to prefer their interest to his own.

But his unbiased opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice to you, to any man, or to any set of men living. These he does not derive from your pleasure,—no, nor from the law and the constitution. They are a trust from Providence, for the abuse of which he is deeply answerable. Your representative owes you, not his industry only, but his judgment, and he betrays, instead of serving you, if he sacrifices it to your opinion.”

That was the ideal set before himself by Edmund Burke, one of the greatest of English Parliamentarians, as he was also one of the greatest political thinkers and writers. He set it up in public on the night on which he was elected Member of Parliament for the city of Bristol, one hundred and fifty-one years ago, as the pattern of conduct for a Parliamentary representative. It is a pattern which belongs not only to his time, not to England only, but to every land in which representative institutions are established. It may be taken to heart by the members of all representative assemblies in all countries of the world. But if it be the pattern of conduct for a Member on the floor of the House, how much more is it the very image of behaviour for him who is called to preside over it. Herein, Gentlemen, is the very marrow of a President's function. It is an ideal seldom reached by any occupant of the Chair, and I quote it to you now, well knowing that I have not survived the test which it imposes, but also in the sure conviction that only by holding an almost unattainable ideal before himself can the President hope to win and to retain the confidence of those over whom he presides. (Applause) Yes, Gentlemen, the President, above all men, must not fail to magnify his office.

And, now, the time has come, all too soon for me, to bid you farewell. It is never a light thing to take leave of friends, and the generous words which have been used by the Leaders of all Parties in this House to-day do not make it any the easier for me to find the true expression of my thanks. That I am grateful to you all goes without saying. That I owe you my thanks needs no words of mine in proof.

“ As the perfume doth remain,  
In the folds where it hath lain.”

so the memories of my time in India, both in this Chamber and outside, will not quickly fade

I am a debtor to you all for many things for your unfailing co-operation with the Chair in all the proceedings of the Legislative Assembly, for your cheerful acceptance of rulings some of which, sometimes, must have nipped a cherished hope in the bud, but perhaps, most of all, for your great forbearance in those moments when the human failings of the Chair must have been all too evident And you have now added a new account to my debt to you by the manner of your farewell In response I can only say that I have encountered difficulties not a few in the discharge of my duty as President, I have been confronted by problems which almost seemed to evade solution, I have had to pronounce an opinion where the bricks were made without straw, but never in any of those situations have I found it so difficult to choose the right word or to give it utterance as now So, I must fall back upon the simplest word of all and say from the bottom of my heart, "I thank you"

Now, Gentlemen, will you do me the honour and give me the pleasure of shaking hands with me before I leave the Chair for the last time

(The Members then shook hands with the retiring President, Sir Frederick Whyte, who then vacated the Chair)

### WELCOME TO THE NEW PRESIDENT

(The new President, the Honourable Mr V J Patel, then took the Chair)

**The Honourable Sir Alexander Muddiman** (Home Member) Sir,  
 12 Noon as Leader of the House I beg to welcome  
 you to the Chair to which you have  
 been elected by the votes of this Assembly, and in doing so, I  
 desire to assure you of the support which it is your right to expect and  
 it will be my duty to accord You have been called to a great office  
 with great responsibilities and we have a confident hope that you will  
 discharge them greatly I trust that the relations that have existed  
 between the Chair and the House during the tenure of office of your  
 distinguished predecessor will continue In our personal relations, as  
 Leader of the House it will be frequently my duty to visit you in your  
 room and discuss the scope of business of the House and I trust that the  
 same cordiality and the same harmony will prevail as has prevailed in  
 the past I assure you, Sir, that you will have the support of these  
 Benches from which I speak in no less a measure and marked by no less  
 a loyalty than your predecessor has received

Sir, I express the most cordial hope that the initiation of this new  
 constitutional development may be attended with all success, and I  
 assure you, again, that you, as the first elected President of this Assembly,  
 enter upon your new duties with the best wishes and good-will of the  
 whole House for the successful discharge of that high office (Loud  
 Applause)

**Pandit Motilal Nehru** (Cities of the United Provinces Non-Muham-  
 madan Urban) Sir, I beg to accord you a most hearty welcome on behalf  
 of the Party which had the honour of claiming you up till a few moments

ago and which still hopes to claim you as a member after you have discharged the functions of your new high office Sir, you have yourself from the floor of the House spoken of the high qualities of the Honourable Sir Frederick Whyte and you have yourself said that it will be your endeavour to come up to that standard which has been set by him I may say at once that I am not a worshipper of the rising sun I like to worship the setting sun, and all I can say at the present moment is that you have filled us with high hopes and expectations and that we are confident that you will fulfil them worthily

**Mr M A Jinnah** (Bombay City Muhammadan Urban) Sir, it is easier to pass a verdict after we have seen the work of the President of this Assembly You are going to preside over this House and, if I may say so with the greatest respect, you are on your trial You have been elected by this House, and according to the law and the constitution you are authorised to discharge the duties and the functions of this high office Whatever apprehensions there may be, I hope that they will be dispelled and I feel that you will try your utmost to fulfil the expectations of your friends Sir, to quote the words from an authoritative book which perhaps you know too well

“ The latest historian of the House gives a capital description of the situation in the following terms

‘ The Speaker’s constituents not only do not go to the poll, they cannot, according to present day usages, call on their representative to vote either for or against any measure which may be before Parliament

As the Speaker never meets his constituents to discuss politics, one of the chief means of present day political education is lost to them. Political organisation is suspended in a Speaker’s constituency, for a present day speaker has no need of any local party organisation to secure his return, even if he deemed it proper to contribute to party funds The newspapers in the constituency have necessarily to refrain from criticism or comment on the parliamentary conduct of its representative, and in nearly all the essentials which go to make representation the constituency is unrepresented In the constituency represented by the Speaker of to day, political life is dormant, for all its outward activities, as they concern both political education and local political organisation, are suspended But no constituency complains or frets under its temporary and peculiar political disabilities It is honoured in the honour done by the House of Commons and the country to its representative ”

Sir, let me assure you, although I do not belong to the Party to which you belong, that in the discharge of your duties and the functions of your high office you shall have every support, every co-operation, not only from me individually but, I believe I am speaking on behalf of my Party, the entire Party I wish you every success and I trust that you will, if not excel, at least come up to the standard of, your predecessor

**Colonel Sir Henry Stanyon** (United Provinces European) It is my privilege, on behalf of the non-official European Members of this House by whom this honour has been deputed to me, to join in the chorus of congratulations which is being sung to you this morning In doing so, I must necessarily sing many of the same notes as my fellow-choristers Two short days ago this House was almost evenly divided in the allotment of its votes between you, Sir, and your gallant opponent To-day, the same House is unanimous in extending to you a sincere and hearty welcome as its first elected President The reason for this apparent change of attitude is as obvious as it is sound Before you were elected, you were still a member of one political party without responsibility to the rest of the House, and you were the executive agent



of your individual political opinions. By election you have become detached from your political adherents, and your private political views,—my friend Pandit Motilal Nehru will not like me to say they are dead—have gone into hybernation (Laughter) During the term of your Presidentship you are incapacitated from fighting the battles of Swaraj, and you are prohibited from acting on the political convictions and predilections and prejudices of Mr. V. J. Patel. You are now, at one and the same moment, the ruler of procedure in this House, and the bond slave of the conventions which surround and sustain your Chair. You have passed from a forensic arena to a judicial bench. The loss of the Swaraj Party is the gain of the House (Applause)—in accordance with the proverb—*Kissi ka ghar jalle—koi tape*—when one man's house burns, another warms his hands (Laughter) In that Chair, Sir, you have no political opinions of your own to guide you. It is no part of your business to pronounce judgment on—or even, if you can avoid it, mentally to explore—the merits of any controversy raised before you in this forum. Your jurisdiction is limited to an administration of the adjective law governing this Assembly. But that is a jurisdiction which will demand all the intelligence, all the time and all the care that you can bring to bear on it. The cross currents of controversy will sweep around you, the waves of stormy debate will dash themselves against your Chair, but they must leave you placid and firm in demeanour, quick and impartial in judgment and sagacious in your control of the conflicting elements for the maintenance of order. I do not say these things in any didactic or dictatorial spirit. We know that you are fully alive to all the qualifications and incidents of your high office, and that it is your purpose to act up to them, and that knowledge gives us confidence that you will carry out your responsible duties after the manner of your distinguished predecessor, to the entire satisfaction of the House and to the utmost of credit to yourself. Some might be inclined to say—you yourself might be discouraged by the thought—that you are handicapped by having to follow immediately after the brilliant expert who has just left the Chair that you now adorn. Your predecessor is verily a super-man, blessed with character and deportment of an exceptional kind, and aided by expert knowledge of and training in parliamentary rules, conventions and traditions. You should not consider it in any way derogatory to you—and we certainly do not—to play second fiddle to him—at least until you have learnt to play as well as he does. On the contrary, your succession to him is a great advantage to you, because he has left a most instructive and helpful model for your guidance of which you will not fail to avail yourself. The momentum of his example will carry you and us along the right way for a long time to come. As has already been said by others, you are not without experience in the duties and difficulties of the chairman of a corporation. You have served and earned distinction as the President of the Municipal Board of one of the first cities of India and we have no doubt that, as such, you have learned much that will stand you in good stead here. We non-official Europeans are a small group in this House, but we have been brought up with high ideals regarding the status and duties of the Chair in corporate institutions, and we are very jealous of the reputation of this Assembly of which we have the honour to be Members. We look, and, as I have said, we look with confidence, to you to maintain the high level initiated and sustained by your distinguished predecessor. In that expectation we offer you our sincere congratulations, our hearty welcome, and our assurance that,

in the due discharge of your responsibilities, you can count on us, at all times and in all circumstances, loyally to support the authority and dignity of your Chair. We sadly miss the President who has gone—we gladly welcome the President who has come. *Le Roi est mort, vive le Roi !*

Diwan Bahadur T. Rangachariar (Madras City Non-Muhammadan Urban). Sir, I need give no assurance to you that if I take part in welcoming you to the Chair to-day, it is in no spirit of idle formality that I do so. But, Sir, the outside public I think needs such an assurance from me. You know, Sir, how far we have differed in views from each other. I contested the seat with you. It was a fair contest. It is true you have snatched the victory at the last moment which was so easily and near within my reach. Nevertheless it is in no grudging spirit that I join in extending to you this hearty welcome which has been extended to you already. (Cheers.) Sir, I have known you but a very short time, but I have heard of you for a very long time. I know you have a great reputation as a great patriot of the land. Patriotism does not mean hatred of others. You have discharged the duties of high office by presiding over the deliberations of a most advanced Municipality, and I have heard from all parties how ably you discharged your duties. I have not the slightest doubt, nobody need have the slightest doubt, that in discharging the duties of this high office you have now earned that there will be any deviation from the high standard set for you by your distinguished predecessor who has just left the Chair. Sir, as a Member of the House and as your Deputy, I promise you my hearty co-operation in the discharge of your duties.

Mr. President. Gentlemen, I thank you most sincerely for electing me to this Chair. I thank you again for the kind words that you have spoken this morning and for the best wishes that you have expressed. I frankly confess, gentlemen, that the feeling uppermost in my mind just at this moment is that it will be difficult for me to carry on the duties of this office after having been engaged for 12 or 15 years in public activities. But I assure you that I have accepted this office with high hopes and fully realizing the implications involved therein. I had to consider, in my mind, whether I would be more useful to the cause of my country by remaining a non-official Member of this Assembly or whether I could serve my country as usefully by accepting this Chair if you offered it to me. Before I made up my mind to stand as a candidate, the decision of this question worried me for days and nights, and ultimately I came to the conclusion that I would be serving the cause of my country better by the choice I have made and therefore I accepted it. The Swarajists are often described as critics, destructive critics—and it has therefore become their duty, whenever an honourable opportunity offers to show not only to this House but to the whole world that, if they know how to destroy, they know also how to construct. They have to show when real responsibility comes to them that they are ready to discharge the duties placed upon their shoulders. You know, gentlemen, that His Excellency the Viceroy was good enough to plead for co-operation for the new President from all sections of the House, my predecessor, to whom we just bade good-bye, also pleaded for such co-operation, may I also appeal to every section of this House for the same co-operation? When I ask for co-operation, Gentlemen, I assure you that I am conscious of the fact that it cannot be one-sided. Co-operation is always mutual, and I particularly ask the

official Benches to bear this in mind that when I appeal to them for their co-operation, I am ready in every sense of the term to extend my co-operation to them (Cheers) The principles which will guide me in the discharge of my duties have already been expressed by me in my letter to the Members of the Assembly I should have liked to read out those words now, but I am sorry I have not got them with me In the discharge of my duties, I shall, I assure you, observe strict impartiality in dealing with all sections of the House, irrespective of Party considerations (Cheers) From this moment, I cease to be a Party man I belong to no Party I belong to all Parties (Hear, hear) I belong to all of you and I hope and trust, my Honourable friend, the Leader of the Swaraj Party, will take immediate steps to absolve me from all the obligations of a Swarajist Member of this House, if, indeed, it has not been done by implication in consequence of my election to this Chair (Cheers) Misgivings have been expressed in some quarters, fears have been entertained, that I would not meet the Viceroy, that I would do this, and that I would do that I assure you, friends, that I am going to do nothing of the kind If the duties of my office require me to see the Viceroy ten times a day, I am here to do so If for the discharge of my duties it is necessary that I should see every official Member of this House, I will meet him None need have any doubt about it, and none have any apprehensions about it Once again, let me thank you for the co-operation that you have promised in the discharge of my duties (Cheers) I will now ask Honourable Members to come up and shake hands with me

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Monday, 7th September, 1925

# RESOLUTION RE RECOMMENDATIONS OF THE MAJORITY REPORT OF THE REFORMS INQUIRY COMMITTEE

The Honourable Sir Alexander Muddiman (Home Member) Sir, I beg to move the following Resolution

"This Assembly recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

Sir, I put this Resolution on the paper in order to fulfil the pledge of Government that an opportunity should be given to this House to discuss the recommendations of the Reforms Inquiry Committee, and if I may judge from the amendments on the paper, the House intend to avail themselves of this opportunity in full measure (Hear, hear) I do not propose to detain the House with any long history of the genesis of this Committee. As a result of the debates in this House in the early part of last year, the Government of India decided to appoint a Committee, the terms of reference to which I will shortly read to the House. The Committee was composed of the following members

Sir Muhammad Shafi, who was then Law Member of the Government of India,

Maharajadhiraja Sir Bijay Chand Mahtab, Bahadur, of Burdwan,  
Sir Tej Bahadur Sapru, who had been the Law Member of the Government of India,

Sir Arthur Froom, a Member of the Council of State,

Sir Sivaswamy Aiyer, a Member of this House,

Sir Henry Moncrieff Smith, at that time a Member of this House and now presiding in another place,

Mr Jinnah, a Member of this House, and

Dr Paranjpye, and

I myself was the Chairman of the Committee

I desire in the first place to remind the House of the actual terms of reference to the Committee. They were as follows

"(1) To inquire into the difficulties arising from, or defects inherent in, the working of the Government of India Act and the rules thereunder in regard to the Central Government and the Governments of Governors' Provinces, and

(2) To investigate the feasibility and desirability securing remedies for such difficulties or defects, consistent with the structure, policy and purpose of the Act,

(a) by action taken under the Act and the rules, or

(b) by such amendments of the Act as appear necessary to rectify any administrative imperfections"

Now, obviously in one respect, the terms of this reference were very wide. They were unlimited as regards the first part of the inquiry into the difficulties arising from and defects inherent in the working of the Government of India Act. As to the second part, the remedial measures which the Committee might take, they were distinctly limited. They were limited to changes not affecting the structure of the Act. I mention this *in limine*, because the Committee has been much attached to *in limine*

quarters for not doing what it was not authorised to do. It was not authorised to consider remedies beyond the scope of that which I have told the House. It is idle to attack Committees for not doing what they are not entitled to do. I have read much unfair criticism on this point and I think it is only just for those who served with me on this Committee that I should make clear what exactly it was they were asked to do and to defend them for not doing what they were not asked to do. Another point I should like to make also at the commencement of my speech is the difficulty of such an inquiry in the circumstances of the case. Constitutional inquiries as a rule deal with events over a considerable period of years when many of the actors have passed from the stage. They are in fact frequently more of a *post mortem* nature. In this case, however, we were faced with this difficulty that many of those engaged in working the Act still occupied the offices to which they had been first appointed under the Act. I desire here to state publicly how greatly indebted I was to all members of the Committee, alike for the discretion they exercised and the assistance they gave me in conducting this very difficult and delicate inquiry.

Now, the Committee, as you know, brought their inquiry to a conclusion and unfortunately they were not unanimous in their conclusions. There were two reports—one which is referred to as the majority report and the other as the minority report. I think the signatories of these reports are so well known to the House that I will not take up its time by reading the names. I am moving that the House accept the principle of the majority report (*Honourable Members* “No, no”) I said I was moving that the House accept the principle of the minority report (Laughter) No, no, the majority report.

Now, Sir, that report made numerous recommendations and the real difference in a few words between the report of the majority and the report of the minority is that the majority say that the existing constitution is capable of amendment and should be amended in the way that the report suggests. The minority report, while not hostile to many of the recommendations and perhaps even favourable to a few, takes the line that the present constitutional machinery needs structural changes beyond the scope of any remedy within the terms of reference. I will later read to the House the most important passage in the minority report. I am therefore asking this House to say in general terms that the policy of improving the details of the existing constitution is one that should be pursued and that the recommendations of the majority report should receive due examination. Now, there are many, not unfriendly to the progress of reforms, who say “Why do you do this? What you are suggesting will satisfy no one. Why take the trouble of making amendments, some of which at least will require Parliamentary legislation, others will require legislation in this House and many will require extensive revision of the statutory rules? Many will tell you that the machine is a failure and will not work. You are merely wasting your labour. In any event, the days of the Statutory Commission are near and it is not worth the trouble to deal in a piecemeal way with a matter of this kind. Sir, I do not hold that opinion. That is not my view and it is not the view of the Government of India. They consider that the majority report recommendations should be examined with a favourable eye. I cannot commit the Government of India to any particular indi-

individual recommendations, but I do say and I do ask the House to agree with me that these are valuable recommendations which need consideration as likely to lead to improvements which practical men ought seriously to consider.

The machinery of the Government of India as constituted anew in 1921 is admittedly neither simple nor uncomplicated. In all constitutions it is only by trial that you can notice where the machinery runs wrong. It may be regarded as a small matter, although I do not regard it myself as a small matter, to make adjustments which diminish friction in the running of the constitutional machine. I should regard it as a considerable feat to screw up even one nut—to adjust one bearing—in the machinery of the Government of India. If I could leave this country knowing that I had in any way, in however small a degree, facilitated the working of this important Act, I should go satisfied that I had done something, at any rate, in the world.

Now, the important point, if I may say so with all deference of the minority report, is in the tail. It is in a few sentences at the end of their report. Those sentences are of so important a character that I will ask the courtesy of the House to permit me to read them out. They conclude their report as follows:

“ We think that the Bihar Government has correctly summed up the position in the provinces by saying that the machinery is working ‘ creakily ’ and ‘ minor remedies may cure a creak or two ’. We have examined in detail the sections of the Government of India Act and the rules made thereunder with a view to see how far ‘ creaks ’ discovered can be ‘ cured ’. We are satisfied that this process, though it may lead to some improvement of the administrative machinery in some respects, will not produce any substantial results. We do not think that the suggested amendments if effected will afford ‘ valuable training towards responsible Government ’ or will provide any solution of the difficulties which we have discussed in our Chapter on political conditions, or that they will strengthen the position of Provincial Governments, in relation to their Legislatures or that of the Central Government in relation to the Assembly. The majority of our colleagues say that no alternative transitional system has been placed before us. We think that no such alternative transitional system can be devised which can satisfactorily solve the administrative or political difficulties which have been brought to our notice. To our mind, the proper question to ask is not whether any alternative transitional system can be devised but whether the constitution should not be put on a permanent basis, with provisions for automatic progress in the future so as to secure stability in the Government and willing co-operation of the people. We can only express the hope that a serious attempt may be made at an early date to solve the question. That this attempt should be made—whether by the appointment of a Royal Commission with freer terms of reference and larger scope of inquiry than ours or by any other agency—is a question which we earnestly commend to the notice of the Government ”.

Now, that is the pith of the minority report. In fact, as far as practical politics are concerned, it is a demand for a Royal Commission. On this point I cannot do better than repeat what His Excellency said in his speech on the 20th August:

“ In effect, therefore, the recommendations of the minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution.”

His Excellency went on to say that the issue was largely one of time. He pointed out that it has been laid down in the Government of India Act that in 1929, that is to say, four years from the present time, there must be a full inquiry. But the minority say they wish the inquiry to take place at an early date, if not at once. His Excellency went on to examine this position and finally gave his opinion in the following terms—

"If those are to be the principles to guide the Commission to its judgment, I cannot think, as a friend of India, that it should commence its inquiries immediately. If the judgment of the British Parliament were to be pronounced upon the present evidence, I fear that it could but result in disappointment."

Sir, these words from one who has been the head of the Government of India for over four years must in any case command the careful and respectful consideration of the House. How much more so is this the case when the Viceroy who is speaking is His Excellency Lord Reading than whom probably in the British Empire there is none more wise and more skilled in arriving at a correct appreciation of the political position or in observing the portents of the political horizon. And yet one more point. What is the actual position? His Excellency had just returned from a visit to England where he met and got into touch with, as he told the House the other day, representatives of all the political parties. His Excellency is, therefore, in a peculiarly good position to estimate and judge current events and probabilities in the political world. I think the House would do well to ponder those words, not once, not twice, but many times.

Now, Sir, the question of the Commission or an authoritative inquiry which has been raised by the minority report requires some further examination. The general scheme of the Government of India Act, as it now exists, is contained in the Preamble. Now, that Preamble is well known to every one in this House, but I think I must read it to the House again. It runs as follows:

"Whereas it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of Self governing Institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the Empire

And whereas progress in giving effect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should now be taken

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples

And whereas the action of Parliament in such matters must be guided by the operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility

And whereas concurrently with the gradual development of self governing institutions in the Provinces of India it is expedient to give to those Provinces in provincial matters the largest measure of independence of the Government of India which is compatible with the due discharge by the latter of its own responsibilities"

Now, Sir, we cannot get away from facts. We are practical men, at least I trust we are. That is the Preamble laid down after full consideration by the British Parliament. It does not envisage automatic progress, it envisages gradual progress.

Then another important part of the scheme of the Government of India Act is contained in section 84A, which deals with the Statutory Commission. This section lays down that there must be an inquiry after ten years, at any rate not later than ten years. In other words, that inquiry must take place in 1929. On that point I should like to read to the House one or two words from the speech of the Secretary of State in the House of Lords. He said

" Even assuming co operation, it was thought that a period of ten years would be required to afford the data for reliable conclusions and generalisations. But I do not hesitate to make clear my own view that it was not the intention of the Legislature to attempt to shackle succeeding Governments, if a spirit of cheerful and loyal co-operation was generally exhibited on the one hand, or if upon the other grave and glaring defects disclosed themselves. It would, indeed, have been an assumption of omniscience alien to the Anglo Saxon tradition, for Parliament to assume so high a prophetic gift as to declare that in no circumstances should the date of the Commission be accelerated. In fact, the door was never closed. On the contrary it is open to day. But the condition is clear "

And to that condition I shall refer later on in my speech. You have been told by the Secretary of State that the British Government are not slaves of dates. I will read to the House what the Secretary of State says on that point.

" The door of acceleration is not open to menace. Still less will it be stormed by violence. But there never has been a moment since the Constitution was adopted in which the Government of India, acting in harmony with the Government at Home, has not been vigilant and attentively considering the spirit in which the present reforms have been received in India. It has indeed been an imperative and urgent duty so to consider them. Wise men are not the slaves of dates, rather are dates the servants of sagacious men. "

The position, therefore, is that there must be a Statutory Commission in 1929. There might be a Royal Commission earlier on the condition referred to by the Secretary of State, which I will read later on in my speech. The minority report, I notice, recognises that before any changes such as those considered desirable by the advocates of reform are undertaken, some form of inquiry is necessary. Now, once you get to that point, you must recognise for practical purposes that the only form of inquiry possible is a Royal Commission. And what will that Commission do? What is its object? And here again I must ask the House to listen for a moment to the terms contained in section 84A (2). This runs as follows:

" The persons whose names are so submitted, if approved by His Majesty, shall be a Commission for the purpose of inquiring into the working of the system of Government, the growth of education, and the development of representative institutions in British India, and matters connected therewith and the Commission shall report as to whether and to what extent it is desirable to establish the principle of responsible Government then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable "

Now, when that Commission is appointed, as, unless the law is changed it must be appointed, what will it have to consider? It will have to consider many things. But the first and primary thing it will have to consider is the past working of the Act as it now exists. It will be a great Assize where, on the one hand the Government, and on the other hand, those who have worked these new institutions, and those who have not worked them as the case may be, will have to render an account of the talent which was placed in their charge and to give a report of their stewardship. Now, those who ask for an early inquiry will do well to ponder as practical men what the result would be if that inquiry was made to-morrow. The new legislative bodies have been at work since 1921. That is, we are in the life of the second Assembly and the second Councils, and the life of the first Council of State has not expired. We have just passed a constitutional landmark definitely laid in the Statute, as a result of which, you, Sir, sit in the Chair.

Now, the last thing that I should wish to do is to take up past records or to excite new ones. That is not and never has been my attitude.



I do not desire to go back on the past to find circumstances of acerbation. I desire to look forward to the future. But I must briefly sum up the position. During the lifetime of the first Assembly and of the first Council, a large and important portion of educated Indian opinion stood outside the legislative bodies. They entered the second Council and the Assembly. These bodies have now worked roughly for two years. Therefore, the system worked for its first period without the assistance of those who, I am glad to say, are now present to-day. Our experience of the second Assembly and the second Council is still developing. Now, what opinion will the Commission form on facts and events such as these? Would it form a favourable opinion or would it form an unfavourable opinion, or would it say that it can form no opinion? These are questions I would ask the House to consider. Sir, appeals to Cæsar are sometimes dangerous. Only those whose hearts are very clear can stand before the judgment seat with confidence. At the most only four short years remain before the Assize must be assembled and we and you alike will be submitted to its judgment. The question of the date of the appointment of the Commission has never seemed to me personally of great importance. I have always thought that great and unnecessary attention has been directed to that point. What is really important is what you will lay before the Commission when it is appointed. You do not want a Commission to come out when you have nothing to lay before it. When the talents are demanded of you, what answer will you give? (*Mr M A Jinnah* "A very good answer") I am glad to hear my Honourable friend say so. I am glad he is so confident.

Sir, in the short time admissible to me on a Resolution it is not possible to go into all the aspects which this great question raises at length. But I do beg the House to consider and weigh one point. Some years ago I was in a garden in the west of England and in that garden there was an old sun dial and on the sun dial were engraved these words *Percunt et imputantur*, i.e., the hours fly by but the record remains, if I may paraphrase roughly. I have used these words before in addressing the House. But I should like to develop them a little further. Nearly six years have passed and our proceedings have been written down. Do we wish the next years to pass in the same way? Are we to remain estranged and attempt to deal with this problem—a problem the greatest which has ever presented itself to the human race, for you are building a constitution not for a nation but for a Continent—can we afford to stand aside, can we afford to remain, as I sometimes feel we are remaining, on the one hand a party trying to storm a fortress, on the other hand persons defending that fortress as if their lives depended upon it? Sir, that is not the way in which constitutional progress and constitutional reform can be effected. (*Mr C S Ranga Iyer* "What is the way?") His Excellency the Viceroy made an eloquent appeal for co-operation. Now co-operation is not a mere phrase. Co-operation is a course of deliberate conduct. (*Mr R K Shanmukhan Chetty* "On whose part?") On the part of all of us. (*Mr Gaya Prasad Singh* "It must be mutual") As I have said, the Secretary of State in his speech indicated that constitutional progress might be accelerated on one condition and that condition I will now read to the House. He says

"There will be, there can be no reconsideration till we see everywhere among responsible leaders of Indian thought evidence of a sincere and genuine desire to co-operate with us in making the best of the existing Constitution."

And that, Sir, is the essence of the Resolution I put before the House I can only regret that I do not possess the eloquence of my predecessor and that I cannot move the House as that eloquence might have moved it I am pleading, in a rough and possibly uncouth manner for a great theme I only trust the interests of that theme may not suffer at my hands

**Pandit Motilal Nehru** (Cities of the United Provinces Non-Muhamadan Urban) Sir, I beg to move an amendment to the Resolution which has just been proposed by the Honourable the Home Member That amendment runs as follows

“ That for the original Resolution the following be substituted

‘ This Assembly while confirming and reiterating the demand contained in the Resolution passed by it on the 18th February 1924, recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty’s Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India

- (a) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India
- (b) The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India
  - (i) Expenditure on the Military Services up to a fixed limit
  - (ii) Expenditure classed as political and foreign
  - (iii) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India.
- (c) The Council of the Secretary of State for India shall be abolished and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self governing Dominions save as otherwise provided in clause (b)
- (d) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for service in all arms of defence and for that purpose, the Governor General and the Commander in Chief shall be assisted by a Minister responsible to the Assembly
- (e) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible
- (f) The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to transitional reservations and residuary powers in the Governor General in respect of the control of Military and Foreign and Political affairs for a fixed term of years

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as ‘ Defence ’ shall be submitted to the vote of the Legislature, but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed.

- (g) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter provincial and all India matters
- (h) The Indian Legislature shall, after the expiry of the fixed term of years referred to in clauses (b) and (f), have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable

This Assembly further recommends to the Governor General in Council that necessary steps be taken

- (a) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf,
- (b) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute ' "

Sir, I have read the amendment without any comment, but in the course of my speech I shall have occasion to explain the scheme and the scope of it

I may at the very outset, say that in dealing with the Resolution and the amendment together I shall confine myself to a plain statement of the situation as I see it. Let us first be clear as to what is the real question before the House. The Resolution of the Honourable the Home Member is short and innocent looking, but involves the most controversial points that are agitating the country. It is divisible into two parts, first, the acceptance of the principle underlying the majority report of the Reforms Inquiry Committee, and second, the adoption of the detailed recommendations contained therein. So far as the latter are concerned, namely, the recommendations, let me at once tell my Honourable friend that we freely make a present of them to him. I shall not waste the time of the House by referring to the recommendations except to say that some of the things recommended are undoubtedly most useful in their own way but not exactly the kind of things we bargained for. What we are trying to do is to find a place in the Sun for ourselves. If we are to have it, we shall need no recommendation from you for the things which will be ours. If we are not to have it, your recommendations will not carry us far and we can do without them. The most important part is the principle. It is not stated in the Resolution and we are left to find it out for ourselves from the text of the report. I have read that report with all the care and attention due to the authors, but I am sorry to say that I have failed to discover any principle underlying it. We have been told in effect that the principle is that something could be done under the Government of India Act and the rules made thereunder as they now stand, and that something is to be found in the recommendations made by the majority. There is no doubt that something can always be done with everything, but the question is whether that something will meet the requirements of the situation and is worth having. That is a matter which, according to the authors, was outside the scope of the reference, and they have, therefore, not troubled themselves about it, and to-day, my Honourable friend, in moving his Resolution, has said that the Committee did not do what they were not asked to do and what they could not do. My answer is that if they were asked to do what I shall show presently was an impossibility, it was up to them to say so, and not to make recommendations which satisfied nobody. If there is any principle to be inferred

from the recommendations, it seems to me to be the principle which governs the whole system of Government, and that is, "Give as little as you can and make sure that in the little you give, the power and prestige of the bureaucracy is not in the least jeopardised." But there is one question of principle which the majority have approached, though they have left it undetermined. It is the question whether dyarchy in the provinces coupled with absence of responsibility in the Central Government can under any circumstances be a sound basis of administration. This and the cognate question whether dyarchy has in fact succeeded are the two vital problems which we must face in this debate. My answer to both, if I may for once borrow the phraseology of the Treasury Bench, is in the negative. I maintain that there never was any doubt in the minds of those who invented and introduced the system or of those who would like to work it at all costs that it was wholly unworkable as such. Let us begin with the inventors who secured their patent from Parliament in the form of the Government of India Act of 1919. In the concluding chapter of what is known as the Montagu-Chelmsford Report we have the following passage

"Hybrid executives, limited responsibility, Assemblies partly elected and partly nominated, divisions of functions, reservations general or particular, are devices that can have no permanent abiding place. They bear on their face their transitional character, and they can be worked only if it is clearly recognised that that is their justification and their purpose. They cannot be so devised as to be logical. They must be charged with potentialities of friction. Hope of avoiding mischief lies in facing the fact that they are temporary expedients for training purposes, and in providing that the goal is not merely kept in sight but made attainable, not by agitation but by the operation of machinery inherent in the scheme itself."

Now, Sir, let us for a moment analyse this most diplomatic statement. It comes to this. We know that the machinery we provide is charged with potentialities of friction, but we hope it will be made to work smoothly. In other words we give you an unworkable machine, but you must try to work it. It was said, and has since been repeated in and out of season, that it is merely a transitional arrangement in the nature of a new experiment, and that those concerned were expected to help to the best of their ability in making it a success. I deny, Sir, that it was a new experiment which deserved a fair trial. The experiment had already been tried in Canada and had hopelessly failed. Here is Lord Durham's description of it

"It was a vain delusion to imagine that by mere limitations in the constitutional Act, or an exclusive system of Government, a body, strong in the consciousness of wielding the public opinion of the majority, could regard certain portions of the provincial revenues as sacred from its control, could confine itself to the mere business of making laws, and look on as a passive or indifferent spectator, while those laws were carried into effect or evaded and the whole business of the country was conducted by men, in whose intentions or capacity it had not the slightest confidence. Yet, such was the limitation placed on the authority of the Assembly of Lower Canada. It might refuse or pass laws, vote or withhold supplies, but it could exercise no influence on the nomination of a single servant of the Crown. The Executive Council, the Law Officers and whatever heads of departments are known to the administrative system of the provinces were placed, in power, without any regard to the wishes of the people or their representatives, nor indeed are there wanting instances in which a mere hostility to the majority of the Assembly elevated the most incompetent persons to posts of honour and trust. However decidedly the Assembly might condemn the policy of the Government, the persons who had advised that policy retained their offices and their power of giving bad advice."

Further on, he says

"It appears, therefore, that the opposition of the Assembly to the Government was the unavoidable result of a system which stunted the popular branch of the

legislature of the necessary privileges of a representative body, and produced thereby a long series of attempts on the part of that body to acquire control over the administration of the Province. I say all this without reference to the ultimate aim of the Assembly, which I have before described as being the maintenance of a Canadian nationality against the progressive intrusion of the English race. Having no responsible ministers to deal with, it entered upon that system of long inquiries by means of its committees, which brought the whole action of the executive immediately under its purview, and transgressed our notions of the proper limits of Parliamentary interference. Having no influence in the choice of any public functionary, no power to procure the removal of such as were obnoxious to it merely on political grounds, and seeing almost every office of the Colony filled by persons in whom it had no confidence, it entered on that vicious course of assailing the prominent opponents individually, and disqualifying them for the public service, by making them the subjects of inquiries and consequent impeachments, not always conducted with even the appearance of a due regard to justice, and when nothing else could attain its end of altering the policy of the composition of the colonial government, it had recourse to that *ultima ratio* of representative power to which the more prudent forbearance of the Crown has never driven the House of Commons in England, and endeavoured to disable the whole machine of Government by a general refusal of the supplies."

Thus, the experiment had been fully tried and had yielded its inevitable results when it was sought to try it again in perhaps what was considered to be a more congenial soil. The soil of India, however, proved as uncongenial as that of Canada and you have had exactly the same results. The controversy about the merits and demerits of dyarchy was started soon after the inauguration of the system and has continued since. I shall not trouble the House with opinions of responsible statesmen expressed from time to time condemning the whole system root and branch but will at once come to the Report of the Reforms Inquiry Committee. Let us first take the majority Report. On the question of dyarchy it is, as I have already said, difficult to discover what is the considered opinion of the majority. They get out of the overwhelming evidence of the utter failure of dyarchy by saying

"It is clear that witnesses have frequently made this allegation not with reference to dyarchy itself and have been thinking not of the division of functions, which is the essential principle of dyarchy, but of other features of the constitution. Complete dyarchy was not, in fact, established. For complete dyarchy it would have been necessary to have established a complete vertical division of functions between the two halves of a provincial government, and to have endowed each half with a separate purse, with a separate permanent staff and with a separate legislature, in the same way as in a federal constitution, there is a corresponding horizontal division in these respects. We have, of course, no evidence to show how such a system might have worked in India. The partial dyarchy which was introduced is clearly, as stated by the Government of the United Provinces, a complex, confused system having no logical basis, rooted in compromise and defensible only as a transitional expedient."

So that the system introduced in India, whether you call it complete or partial dyarchy, is self-condemned and indefensible in its very nature. In this view one would have expected a clear pronouncement that it has not and could not have succeeded. But we have instead the following quibble for a finding of the Committee

"While the period during which the present constitution has been in force has been too short to enable a well founded opinion as to its success to be formed, the evidence before us is far from convincing us that it has failed."

It has not been shown to have either succeeded or failed, and therefore must go on, that is the logic. The minority, on the other hand, are very clear and precise. They say

"Differing from the majority of our colleagues we have been forced to the conclusion that the present system has failed and in our opinion it is incapable of yielding better results in future."

Now, Sir, at this point I think it will be of interest to the House if I refer to a passage from the opinion of the Honourable Mr Sachchidananda Sinha of the Bihar and Orissa Government, who is an Executive Councillor and not a Minister. He says in the opinion which was submitted along with the opinions of the other Members of the Bihar Government

" It (talking of dyarchy) is not only too complex and complicated, but one which being unknown to constitutional history is naturally unwarranted by political experience as a satisfactory solution of the problem of an efficient executive, sufficiently amenable to the control of popular representatives. In this connection, I may quote a well known historical incident which seems to have bearing on this point. After Akbar had formally founded and declared himself the high priest of his new religion, 'Din Elahi', he asked his near relation, Raja Man Singh, to join the new church. Man Singh said, 'Sire, I and all I have are yours. I shall gladly obey your Royal command, but if I had my option I had rather not to do so. If Your Majesty had asked me to become a Mussulman, I might have understood it, for I understand Hinduism, and I understand Islam'; but I confess, I do not understand this hybrid creed which Your Majesty has established."

That is exactly the case here. We understand various system of government known to the civilised world or that were known to the ancient world, but this hybrid system which has been brought into being by speculative constitutionalists is a thing which is unrecognisable, and impossible to be identified with any of the past and present constitutions of the world. Now, I have read the passage from the minority report. I do not intend troubling the House with the seven good reasons they give for their opinion because Honourable Members must have read them. We are here concerned with the conclusion at which they arrived and I would commend to the House the passage which my Honourable friend, the Home Member, has read from the concluding portion of that Report. I commend that passage to the acceptance of the entire House.

Now, we come to the high authority of Lord Birkenhead. Dealing with the question in his recent statement in the House of Lords his Lordship says

" I myself was always very distrustful of the dyarchical principle. It seemed to me to savour of a kind of pedantic and lude bound constitution to which Anglo Saxon communities have not generally responded, and which, in my anticipation, was unlikely to make a successful appeal to a community whose political ideas were, thanks in the main to Macaulay, so largely derived from Anglo Saxon models."

Now, Sir, we have in the opinion of Lord Birkenhead the true instincts of a constitutional lawyer asserting themselves but strangely enough His Lordship cannot find it in him to say that dyarchy has failed. Later on in the same speech, after discussing the opinions of Provincial Governments His Lordship puts the question again to himself and answers it by saying

" Enough has been said to satisfy my present purpose which is to show that no short or dogmatic answer can be given to the question. It has neither altogether succeeded, nor has it altogether failed"—and in saying that he has taken the cue from my Honourable friend—"and it must further be noted"—thus is important—"by way of additional qualification that where it has succeeded the price of the success has been at some stages and in some directions a considerable inroad upon the dyarchical principle."

To put it in plain English what His Lordship is here saying is that dyarchy has succeeded where it was not dyarchy at all. It must therefore be taken that the system has been universally condemned and yet the irony of fate is that we are held bound to it. It is said that there are objections and defects obvious on the very surface, but you must honestly

and earnestly work the system and prove that it is unworkable. The Government want us to give them the Moon. We say it is unattainable. They agree but they insist on our making a vain attempt to get at it. We respectfully decline not only because the attempt is vain but also because the attempt has actually been made and has miserably failed. What is then the position? It is simply this, that you have either to give us real reforms or to go back to your time-honoured methods of autocratic rule. This is, Sir, all that I have got to say about the majority report. It must be scrapped and some new avenue found to make political life possible. That avenue was pointed out in February 1924 in the Resolution which was carried by this House and it is now again clearly shown by the amendment which I have moved.

This introduces me to the amendment itself. It will be observed that it consists of two main parts. It calls upon the Government to take steps to have a declaration in parliament embodying certain fundamental principles to be made in exactly the same way in which the declaration of 20th August 1917 was made. Now, Sir, we are asking you to follow exactly the same procedure but in a more satisfactory manner than was done in 1917. You will remember that in February 1924 the Resolution which was put before the House was a simple request for the constitution of a round table conference representative of the people, and this conference was to frame a scheme for a constitution with due regard to the interests of the minorities. There we stopped. Why is it then that we have now come forward with a series of suggestions? The reason is the very generous invitation extended to us by Lord Birkenhead. In making these suggestions we point out the principle which should be followed in framing any constitution that is likely to be agreed upon. If the principle is not first established, how is it possible to frame a constitution which would answer the requirements of the position according to the lights of the framers? The first essential for the successful framing of a constitution is that we must agree as to what is to be the basis of that constitution. So far as we are concerned we have now pointed out that basis in this amendment, and I may at once inform the House that it constitutes the very minimum that we could put forward. Briefly it is this—that we want responsible Government in the Central Legislature. We want the Executive to be responsible to the Legislature except in certain particulars detailed here, namely, the expenditure on the military services up to a fixed limit, expenditure classed as political and foreign and payment of debts and liabilities. The reason why we do that is that it is in the nature of a proposal with a view to a settlement. It cannot be anything other than that. Having regard to the fact that His Excellency the Commander-in-Chief is now in a position to march from end to end without meeting any trace of opposition from any quarter—thanks to your having rendered us so entirely helpless—we say that you may keep the military expenditure in your own hands for a fixed term of years and, not only the expenditure but also the general control of military services. Now, that is not because, if we undertook the task we could not do it. We might make mistakes. We might even shed more blood than necessary but we shall blunder through. We are making this offer to you as one that has been agreed upon by all the Nationalists and I must emphasize the fact that it is only because it is in the nature of an offer for a settlement that it has been adopted. It is an offer by which the Swaraj Party as a whole is as much bound as the other Nationalists in this House or





of "ending" was to follow. The erstwhile non-co-operators began with a fair and frank offer to co-operate with the Government if it would honestly and ungrudgingly join in the process of mending. As all India was of one mind on this point, all elected Nationalists, Swarajists and non-Swarajists including many nominated Nationalists joined in placing the national demand for full responsible government before this House. I had the honour to move a Resolution and in moving it I said

"We have come here to offer our co-operation, non-co-operators as we are, if you will care to co-operate with us. That is why we are here. If you care to have it, we are your men. If you do not, we shall, like men, stand upon our rights and continue to be non-co-operators."

Nothing could be clearer than this. But how was this frank offer received? On the 8th February 1924 Sir Malcolm Hailey formulated the Government proposal thus. He said

"It may be that the remedy for these difficulties will be found by using the rule-making power within the Act, I refer to the utilisation of those sections to which reference is so often made, 19 A, 45 A, and 96 B. It may even be—I can say nothing as to this—that the inquiry may show that some changes are required in the structure of the Act in order to rectify definite and ascertained defects experienced in actual working. When we have our results, and those results are ready for presentation to Parliament, then before they are finally presented to Parliament we shall ask the Secretary of State to give every opportunity for discussion in this country both in the Legislature and elsewhere. That is as far as we can go at present."

Ten days later in the course of the same debate he further explained the Government position as follows

"If our inquiry into the defects of the working of the Act shows the feasibility and the possibility of any advance within the Act,—that is to say, by the use of the rule-making power provided by Parliament under the Statute, we are willing to make recommendations to this effect. But if our inquiry shows that no advance is possible without amending the constitution, then the question of advance must be left as an entirely open and separate issue on which Government is in no way committed. To that extent the scope of our inquiry goes somewhat beyond that originally assigned to it, but I must again emphasise the fact that it does not extend beyond that scope to the amendment of the constitution itself."

Now what was the result of the struggle so far in this House? The only consolation to be derived by this statement was that while the Government, as then advised, were not prepared to go beyond the Act, the question of the revision of the Act itself was left open without the Government committing themselves one way or another. This was small consolation for those who asked for an immediate revision of the Act. The Resolution asking for the establishment of responsible government in India was carried by the overwhelming majority of 76 to 48 on the 18th February 1924. It contained the modest request

"to summon a representative round table conference to recommend, with due regard to the protection of the rights and interests of important minorities, the scheme of a constitution for India."

The existence of inherent defects in the constitution was now practically conceded by the Government, and what could be more reasonable than for this House to ask to have a suitable constitution framed in a manner in which all rights and interests could be safeguarded? This was 18 months ago. What has the Government done in this interval? It can be summed up in one word and that is, "procrastination." There was a departmental inquiry, about which we know nothing. Then a Committee which my Honourable friend the Hon. Member, has just mentioned by lending it his name. I have already dealt with this

Committee Then we come to an epoch-making event in the history of India His Excellency the Governor General took the trouble to go to England to confer with the Right Honourable the Secretary of State for India on this momentous question Their Lordships held many consultations and conferences at which all the materials collected by the Muddiman Committee besides those already existing in the India Office and the Government of India Secretariat were made available to them No greater tribute can be paid to the judicial mind which both their Lordships brought to bear upon the most important questions they were considering than is implied in the fact that after months of full and free discussion they arrived at no decisions whatever and have kept perfectly open minds to give an unbiassed hearing to this Legislature In his statement made in the House of Lords last month Lord Birkenhead is reported to have said

“ No decisions whatever have been reached nor could any have been reached Indeed not even the Cabinet which has naturally been kept closely aware of the discussions between myself and the Earl of Reading has reached any decision The Government is far too conscious of the implications of the Montagu Chelmsford Constitution to find it possible even to think of the conclusions until certain indispensable antecedent steps have been taken ”

And what were those indispensable antecedent steps ? In a subsequent passage, His Lordship says

“ Before any decisions of any kind are taken it is obvious that consideration and advice of the Legislative Assembly must be elicited

We should, for reasons, which are apparent, not dream of announcing or even of forming decisions without the contribution of that very important Legislative body which we have so recently called into existence I am not, therefore, to day either announcing or purporting to announce decisions or conclusions ”

Now, this was a due recognition of the importance of this Assembly We are truly thankful to His Lordship for the great consideration he has shown to us, (Hear, hear)—but I must confess to a feeling of perplexity when I attempt to reconcile this weighty pronouncement with the more or less decisive opinions expressed in the subsequent portions of the speech For example, the effect of the Preamble to the Act of 1919 is authoritatively declared to be “ permanent and static ” This, Sir, is a view which we cannot accept under any circumstances, whatever (Hear, hear) It has brought upon us all the trouble we have suffered from in the past and I may at once say without mincing words that we are prepared to undergo endless suffering in the future so long as the Government adhere to that view The fundamental principle on which a constitution for India is to be passed must be the principle of self-determination (Hear, hear) We are absolutely clear on that point But Lord Birkenhead appears to be equally clear that this principle cannot be applied to us His Lordship says

“ Conformably with the principles laid down in the Preamble one Constitution or another might at one time or another be attempted Experience, education, or our informing critics in India might induce us to make an amendment here or an advance or a variation there, but the whole message, as we understand it, of our situation in India with all that it involves in the storied past, in the critical present, and in the incalculable future, is to be read in that Preamble ”

The Preamble has all that immense importance If this be so, then good-bye to all hope of settlement But in view of His Lordship's clear and unambiguous announcement that no decisions have been taken and none will be taken till the Assembly has expressed itself, I take the

liberty to treat this expression of opinion as an *obiter dictum* or at best an observation by a judge in the course of a trial made with the simple object of inviting argument. Taking it in that light, I beg to refer the House to what I said on the point in the course of the debate in February 1924. I will not read it. It is a long passage, but I should like to read certain important passages to supplement the remarks I made on that occasion. They refer to what was actually done when constitutions were framed in the Dominions. I take the case of Australia which framed its own constitution to be embodied in a Statute of Parliament. What was done will appear from the following extracts from the speech of the Right Honourable Joseph Chamberlain on the introduction of the Constitution Bill in the House of Commons on the 14th May 1900. He said

“ On the one hand, we have accepted without demur, and we shall ask the House of Commons to accept every point in this Bill, every word, every line, every clause, which deals exclusively with the interests of Australia. Wherever the Bill touches the interests of the Empire as a whole, or the interests of Her Majesty's subjects, or of Her Majesty's possessions outside Australia, the Imperial Parliament occupies a position of trust which it is not the desire of the Empire, and which I do not believe for a moment it is the desire of Australia, that ye should fulfil in any perfunctory or formal manner ”

That is exactly what we say. Make us masters in our own home, but whatever else is outside the home and pertains more to your Imperial interests, you are welcome to keep. Then he says

“ However great we might think the mistake that they are making, and however great we think the injury to the Empire, still we should have to act against the danger of interfering with those rights which they regard as their undoubted palladium. ”

Sir, you will see that the amendment which I have moved to-day not only fulfils these conditions but as a transitional arrangement allows the Secretary of State for India greater powers than the Secretary of State for the Dominions has in any self-governing Dominion. Then, take the case of the Union of South Africa which enjoyed the same privilege of making its own constitution. In the course of the debate on the South Africa Bill in the House of Lords the Earl of Crewe made the following observations. He said

“ The movement for a federal constitution for the Colonies or South Africa which was started in 1876-77 came to nothing though ‘ it was inspired by high motives, but not perhaps carried out with complete understanding ’. It failed in one respect, and I may adopt a phrase used by my noble friend Lord Selborne—it failed because it was not home-made. It was suggested and was almost attempted to be forced on the Colonies from here, and consequently it was abortive ”

Then he proceeds to say

alterations in order to remove glaring defects, Lord Crewe went on to say,

“ But I do feel that if this change is to be made it must be made in South Africa by South Africans themselves, and that it is not possible for us, whatever we may consider to be the special merits of the case, to attempt to force it upon the great representative body which with absolute unanimity demands that it should not appear ”

Now, Sir, to return to the Preamble In concluding his remarks on the Preamble Lord Birkenhead remarked

“ We shall not be diverted from its high obligations by the tactics of restless impatience The door to acceleration is not open to menace, still less will it be stormed by violence ”

All I can say, Sir, in reply is that we shall not be diverted from the pursuit of what we consider to be our birthright by strong words from any quarter, however high (Hear, hear) The door of co-operation is not open to threats, still less will it be stormed by force

Then, I have in passing to deal with certain remarks which His Lordship has made on the Report of the Muddiman Committee They are weighty remarks made in a judicial spirit of open-mindedness Here they are

“ We do not anticipate, for reasons which have already been made plain, that we shall be able to accept the report of the minority at this stage ”

This is also, of course, subject to what this Assembly might say in the course of this debate

“ The problem of provincial autonomy contemplates the complete transfer of law and order and it would render necessary far reaching changes in the Central Government of India, which have never yet been closely analysed and are rarely even cursorily examined ”

terms of reference, do not present it as a practical and fully considered scheme, but content themselves with putting it forward as an ideal."

Well, Sir, it will be for one of the members of the minority—and there is a distinguished member to my right—to say whether he pleads guilty to the charge that what they said in the Report was not fully considered. I can quite understand that they were very mindful of the terms of reference, but I am afraid His Excellency has not done justice to himself or to the members of the minority by saying that they had not fully considered the scheme. He proceeds

"The steps for its attainment clearly demand further investigation."

That is what the minority ask for.

"In effect therefore the recommendations of the minority amount to a demand for an early and authoritative inquiry with a view to a revision of the Constitution. The issue at the moment between them and the Government of India is largely one of time for the appointment of a Commission."

Now, the amendment which I have placed before the House will, I think, clarify the issue. It is not merely a question of time. It is a question of substance as to what this Royal Commission or round table conference or convention or whatever agency may be employed is actually going to do. Is it simply to come and begin at the beginning as is laid down in section 84-A of the Government of India Act? Is it to go into questions like these: What is the state of education in India? What progress have representative institutions made in India? Whether these people deserve any further progress or whether it is necessary to send them down a form or two to learn their lessons better and come better prepared for another Commission ten years later? Now, that is the sort of thing which we are objecting to. We say we are absolutely fit for self-government, as fit as you are yourself in your own Island. This is what we say. Here we are occupying that position and you tell us as you would tell schoolboys: Be good boys and you will be promoted to a higher form.

Then, it is said—and my learned friend the Honourable the Home Member relied specially upon that passage—that wise men are not the slaves of dates. I say wise men are not the slaves of Preambles either. (Applause.) What sanctity is there in a Preamble? Is not this Act of Parliament, the Government of India Act of 1919, just like any other Act of Parliament? Are not all Acts of Parliament the result of the experience and wisdom of Parliament? Or was any special kind of that experience and wisdom or the quintessence of all experience and wisdom infused into this Preamble? Will any lawyer tell me or, for the matter of that, any other person that any legislative authority, not to speak of the Mother of Parliaments, is not perfectly at liberty to set aside its own Act under whatever circumstances it may have been passed? Of course, I do not say that the mere fact that because we ask for it the Act of 1919 must be repealed. We say we have made out a case, which you have not answered, which you have admitted, and upon that case, whatever else may happen, the provision for dyarchy and no provision for responsibility in the Central Government cannot work and cannot remain on the Statute, unless, of course, in the confidence of your strength and brute force you want to keep us down and to force your own schemes down our throats for years to come.

Then, Sir, there is the plea for co-operation Lord Birkenhead, His Excellency the Viceroy and my friend the Honourable the Home Member have all said that the first condition, a very clear one, is that you must co-operate with us I say that my first condition, as clear a condition as your own is, is that unless you show a change of heart, we are not going to co-operate (Hear, hear and Loud Applause from the Swarajist Benches) The hand of fellowship was extended to you in no grudging spirit by the late founder and chief of the Swaraj Party You have rejected it, but I am here to say that I and my Party stand by what he said Let me remind you of what the late Mr Das said in his Faridpur speech He said

“ We have been gravely told that Swaraj is within our grasp if only we co operate with the Government in working the present Reform Act With regard to that argument, my position is perfectly clear, and I should like to restate it so that there may be no controversy about it If I were satisfied that the present Act has transferred any real responsibility to the people, that there is opportunity for self realization, self development and self fulfilment under the Act—I would unhesitatingly co operate with the Government and begin the constructive work within the Council Chamber But I am not willing to sacrifice the substance for the shadow I will not detain you to day with any arguments tending to show that the Reform Act has not transferred any responsibility to the people I have dealt with the question exhaustively in my address at the Ahmedabad Congress, and if further arguments are necessary, they will be found in the evidence given before the Muddiman Committee by men whose moderation cannot be questioned by the Government The basis of the present Act is distrust of the Ministers At the same time, I must make clear my position,—and I hope of the Bengal Provincial Conference—that provided some responsibility is transferred to the people, there is no reason why we should not co operate with the Government But to make such co operation real and effective two things are necessary first, there should be a real change of heart in our rulers, secondly, Swaraj in the fullest sense must be guaranteed to us at once, to come automatically in the near future ”

These are exactly the same sentiments which the minority have expressed in the concluding part of their report Then the late Mr Das went on to say

“ I have always maintained that we should make large sacrifices in order to have the opportunity to begin our constructive work at once ”

Further on he says

“ It is impossible to lay down the exact terms of any such settlement at the present moment, but if a change of heart takes place and negotiations are carried on by both sides in the spirit of peace, harmony and mutual trust, such terms are capable of precise definition ”

Then, Sir, if it does not happen, what is the other alternative ? This is what Mr Das has said on this point

“ If, however, our offer of a settlement should not meet with any response, we must go on with our national work on the lines which we have pursued for the last two years so that it may become impossible for the Government to carry on the administration of the country except by the exercise of its exceptional powers There are some who shrink from this step, who point out with perfect logic that we have no right to refuse supplies unless we are prepared to go to the country and advise the subjects not to pay the taxes My answer is that I want to create the atmosphere for national, civil disobedience, which must be the last weapon in the hand of the people striving for freedom I have no use for historical precedent, but if reference is to be made to English history in our present struggle, I may point out that refusal to pay taxes in England in the time of the Stuarts came many years after the determination of the Parliament to refuse supplies The atmosphere for civil disobedience is created by compelling the Government to raise money by the exercise of its exceptional powers, and when the time comes we shall not hesitate to advise our countrymen not to pay taxes which are sought to be raised by the exercise of the exceptional powers vested in the Government.”

Now, Sir, the House will please bear in mind that these are not sentiments uttered in bitterness. They were uttered at a time when the late Mr. Das was extending his hand of fellowship to the Government, and that was a time when he without the least hesitation frankly opened out his heart to Government as well as to his own people by pointing out our own weaknesses. What does he say? He says—

“ I hope that time will never come,”—*referring to civil disobedience*—“ indeed, I see signs of a real change of heart everywhere, but let us face the fact that it may be necessary for us to have recourse to civil disobedience if all hopes of reconciliation fail. But let us also face the fact that civil disobedience requires a high state of organization, an infinite capacity for sacrifice, and a real desire to subordinate personal and communal interest to the common interest of the nation. And I can see little hope of India ever being ready for civil disobedience until she is prepared to work Mahatma Gandhi's constructive programme to the fullest extent. The end, however, must be kept in view, for freedom must be won.”

Now, Sir, this is the position of the Swaraj Party. Mr. Das, as I have pointed out, refers to the possibility of co-operation more in sorrow than in anger. He implies no threat as he frankly faces the fact that we have not arrived at the proper stage of organization to have the capacity for civil disobedience. But when there is no alternative open to us, we must take the road leading to it, however long and weary it may be. Civil disobedience may not come for years, but it has to come one day, and the sooner we begin our preparation the better.

This is all, Sir, that I have to say, and I thank the House, and I thank you, Sir, for the latitude that you have allowed to me. I hope you will permit me to say one word more before I sit down. Sir, never was this House called upon to discharge a duty involving greater responsibility than that laid upon it on this momentous occasion. I say so because my reading of the whole situation as it presents itself to-day convinces me that we have arrived at that critical moment of our political existence when the action taken on the Resolution before the House is bound to make or mar our future history. Let me assure my Honourable friends opposite that the amendment I have moved is the result of the most careful and anxious consideration, that not only I and my Party but practically all the Nationalist Members of this House are capable of, and that I have moved it with the fullest sense of the grave responsibility that rests upon me.

The history of the so-called reforms is painful and depressing reading at present, but as it develops in the near future, it will, I am confident, furnish the brightest chapter to the chequered history of this land. The struggle for freedom once begun must sooner or later have its appointed end, and that end is no other than the achievement of the fullest freedom. It remains to be seen whether England will share the credit of that achievement by willingly giving a helping hand or suffer that achievement to be wrested from her unwilling hands. These are the only alternatives. It is for England to choose. (Loud Applause.)

Colonel J. D. Crawford (Bengal European). Sir, as I read the amendment which is now before the House, I thought to myself of the unfortunate fate which met my amendment on the Prohibition Resolution, and I thought that this too was likely to be ruled out of order. I therefore did not give it that attention which it might otherwise have had. I do not know, Sir, that I altogether welcome a further dis-

cussion on the constitution, not because I am not anxious to see a practical and equitable solution of our constitutional problem but because I think we waste an undue amount of the time of this House in the discussion of constitutional questions to the detriment of more important and constructive work. Does any Member of this House honestly believe that the *rayat* and the unrepresented masses of the peoples of India care one jot at the present about the constitution? (*Honourable Members* "They do, they do") No, Sir. They are far too much up against the hard economic facts of life to worry very much about anything else but earning their livelihood. If we gave more time to the consideration of schemes for improving the general well-being of the people and a little less time to lengthy dissertations on constitutional questions, I feel the House would be showing a sense of responsibility which would go a long way to secure for itself greater powers. I feel, however, that it is better to discuss the constitutional question on a definite issue such as that provided by the Reforms Inquiry Committee's Report rather than at the inopportune moments we usually choose and I am glad that the Secretary of State has maintained the constitutional position of consulting this House before any final decision is taken. There are those of us who believe that this difficult and intricate problem is one that entitles the views of those in India, both Indian and British, and who understand and know the conditions in India, to very serious consideration, and that they should not be neglected, as on the occasion of the Montford Report, in favour of views put forward by constitutional experts from England. The announcement of the Secretary of State that he is prepared to give full consideration to views put forward from India that carry a reasonable degree of support from a majority of the peoples of India is one, therefore, that I welcome. I think there are very few of us who expected anything very startling from the Report of the Reforms Inquiry Committee, for we surely realise that, however anxious we may be for a greater measure of self-government, there are no short-cuts to that dubious Paradise. I have not, therefore, been disappointed by the work of the Committee or its Report, except in one direction, and that is, the failure of the leaders of the Swaraj Party to take part in that inquiry.

It does not seem to me to be a matter of great importance that the terms of reference were somewhat restricted.

3 P M At any rate, such limitations did not prevent the minority from stating their case. Our Swarajist friends are constantly proclaiming that India's efforts in the Great War are sufficient justification for a measure of self-determination. (*An Honourable Member* "No, no. You are wrong.") I, Sir, often fought alongside Indian troops in the Great War and thoroughly appreciate that position. But I venture to think that self-determination as seen by those men who fought in the Great War and did their bit for the Empire is somewhat different from that of my Swarajist friends. If I am right, I do not think that there are many members in the Swarajist Party who took any active part in assisting the Empire on that occasion.

**Mr A Rangaswamy Iyengar** No, no.

**Colonel J D Crawford** On the other hand, I am inclined to think that there are not a few who were even at that time possessed of a bee



of obstruction in their bonnets. That being the case, it is all the more to be regretted that they did not come forward on this occasion of the Reforms Inquiry Committee with a view to placing their case before Government and before the country, so that reasonable men could find out exactly what it was that they wanted. I remember, in correspondence that passed between my Honourable friend Pandit Motilal Nehru and myself on an invitation to Europeans to join in a conference, that he twitted me during the last session for not having taken part. He did not go on, however, to say that we asked him for some definition of his meaning of Swaraj and that he replied that that was a matter to be settled at the conference. That was an admission that on that occasion at least the Swarajists had no very definite case as to what they thought or what they required. To those of us who are generally striving to help India on the road of political progress, those who did not approve of the road taken but have yet put our shoulders wholeheartedly to the wheel, a body of malcontents, who stand aside and jeer but are ready to accept any reward that may be going, are not likely to be popular.

I would now turn to the finding of the Committee. May I be allowed to congratulate the members who signed the minority report on the reasonable statement of their case? I feel their case would have made a greater appeal to us than it has done had it been less partisan in its views. These members have naively admitted their partisanship in the opening paragraphs of their report. In the concluding paragraph of Chapter I they say

"We beg to point out that having regard to the terms of reference, we felt at the very commencement of our work that although it was open to us to traverse large ground so far as the inquiry was concerned, yet in the matter of remedial proposals our scope was very much limited by the language used in clause 2 of the terms of reference."

I feel that their impartiality has been considerably damaged by that statement. I feel that the members of the committee of inquiry should have approached their task with an open mind and come to their decision on an impartial review of the evidence. I feel the partisan attitude adopted has led the members who signed the minority report to give undue attention to the evidence of Ministers inexperienced in administration (*Mr T C Goswami* "Question," ) and too little weight to the evidence of trained administrators. The problem is a practical, rather than a theoretical one, and practical considerations ought to have prevailed over mere sentiment. The minority have not found themselves bound by the restricted terms of reference proposed to the Committee and have, therefore, dealt with the problem from a wider point of view than the majority. For this reason, I will consider their recommendations first.

Looked at from the broadest point of view, their recommendations can be summed up as follows, "Dyarchy has failed, therefore appoint your statutory commission as soon as possible." I personally cannot subscribe to the opinion that dyarchy has failed. I am prepared to agree that the system is not popular and has few supporters. But all criticise it from such widely divergent points of view that I am inclined to think its very unpopularity shows that it has the merit of holding the scales reasonably equal.

**Mr A Rangaswami Iyengar** That is a very fine test

Colonel J D Crawford Personally, I accept the view of the United Provinces that as worked, dyarchy is a complex, confused system, having no logical basis, rooted in compromise, and defensible only as a transitional expedient, yet capable of being worked by reasonable men in a reasonable spirit. I feel sure that some of the opposition will want to refer us to the position in Bengal and in the Central Provinces, but I would claim that those politicians there have not shown us that dark dyarchy is not workable. They have simply shown us that they themselves are not prepared to work it. As to the very considerable powers conferred on India by the Government of India Act, sufficient evidence is surely forthcoming in the very large measure of Indianization already secured in all the departments of Government. Although, Sir, I cannot agree that the existing constitution has failed, for there is no doubt that the power given to Indians has never been properly realised, yet I am prepared to admit the unpopularity of the present constitution with all classes, and therefore to examine the logical recommendation of the minority arising therefrom for the early appointment of a statutory commission. I would ask those who signed that report what they expect to obtain from the appointment of a statutory commission at present. Before any constitution can work, it must have the confidence of the majority of the peoples of India. Do these Members consider that there is at the moment the slightest hope of securing the confidence of important minorities in any constitution that would place them entirely in the hands of an inexperienced majority, with a civil service entirely depleted of its European element—for Indian politicians will accept nothing less.

Mr A. Rangaswami Iyengar That is wrong

Colonel J D Crawford and without sufficient safeguards ! It is possibly asking those minorities to commit suicide. If we are to secure a reasonable measure of confidence all round, we have first to exorcise the demon of distrust and to create an atmosphere of general good-will which does not altogether exist at the moment though there are signs that it is coming. Unless we have those conditions, the efforts of any Commission must be abortive, and on those grounds I am opposed to the appointment of any Commission at present. I can thoroughly understand any statesman refusing further to examine this difficult problem until all sections of the people in India can find a substantial measure of agreement amongst themselves. I do not think many of us nowadays consider the year 1929 particularly sacrosanct. Rather, our view is that any limitation of time in questions of this nature is best avoided. In view, however, of the increased difficulties of the problem brought about by a set of very short-sighted politicians, I very much doubt if you will be able to obtain a reasonable measure of true agreement amongst the peoples of India before that date, and without it I feel the appointment of a statutory commission is a waste of money, time and effort.

As I said previously, in my opinion, there is no short cut to Swaraj. The road is long and difficult and our only way to speed up our journey is by every one of us putting our shoulder to the wheel and with good-will and selfless efforts, help by using the machinery to our hand in surmounting the undoubted obstacles that beset our path. If that

machinery serves no other purpose, it may yet give us that spirit of good-will and joint partnership and team work without which we cannot progress. It is therefore with some regret that I oppose the recommendation of the minority for the appointment of a statutory commission, on the grounds that it is premature and displays, to my mind, an optimism which is not yet justified by facts.

I would now turn to the recommendations of the majority report. I only propose to touch on one particular point, a point of major importance to all minority communities. Both the majority and the minority support a system of communal representation, though possibly, with reservations. For some unknown reason, we imagine that everything that comes out of the west is suitable to the east, and, because communal representation is opposed to western democratic principles, therefore we are opposed to it in this country. Our aim should be a representative rather than a democratic form of government. India is not a nation and our problem is one rather of internationalism than nationalism. We want a federation of the peoples of India. Would any Member of this House suggest for a moment that representation on the League of Nations should be anything other than national? And why do so in the case of the Government in India? Our religious, communal and caste differences are a portion of our problem which will always be with us and are not going to be solved by closing our eyes to the fact that they unfortunately exist. I believe a Muhammadan who believes in being a Muhammadan, a Hindu who believes in being a Hindu, a Britisher who believes in British traditions, and a labourer who believes in being a good workman, are the best citizens and if they are all strongly organised and are capable of protecting their pet corns from being trodden on, then we have a far greater chance of co-operation among the various peoples of this country for the benefit of the Indian Empire. I will strongly support also a greater measure of representation of labour and the depressed classes both in the provincial Councils and the Legislative Assembly. (*An Honourable Member* "What about the agricultural classes"?) The agricultural classes as well. But for practical reasons I am against the system of election. Most labour in India, or a large proportion of labour in India is migratory and I fail to see how you can introduce any proper electoral roll. I think therefore that labour will for a long time to come have to be represented by nomination. With all due deference to the honesty of my Honourable friends, Messrs Joshi and Chaman Lall, might I suggest to Government that labour might sometimes be represented by persons other than lawyers? (*An Honourable Member* "Mr Joshi is not a lawyer") They are not always in touch with labour conditions and are solely governed by certain western social ideals, often not suitable to our present state of industrial development and certainly not wanted by labour itself. (*Mr M. A. Jinnah* "A soldier should represent labour") If we are to make political progress in this country, there must be co-operation between all sections of the peoples of India. (*An Honourable Member* "On what terms?") One of the greatest lessons that I personally learnt from the Great War was that without co-operation victory was not obtainable. I remember occasions when orders had come down from General Headquarters which were criticised and pulled to pieces by officers who in consequence failed to act wholeheartedly on the orders issued. The result, though it has not been a disaster, has certainly not been a success. One thing we have to do is to take whatever is given to us, may be it is not the best, but we should do

our utmost to work it for all it is worth, and that is the only way which will enable us to make real progress. We are not opposed in the very least to the legitimate aspirations of Indians for self-government. It is but natural. But there are many difficulties which have to be got over. If that road is to lead to success it is by joining hands and working together that we will arrive at the goal. That is what the Secretary of State has asked us to do. Let us all put our shoulders to the wheel, let there be no grumbling, and then we shall have a very legitimate right to say, "This machine does not serve our purpose and let us have another." Until we have done our best to work what is given, how can we ask for anything else?

**Sir P. S. Sivaswamy Aiyer** (Madras Nominated Non-Official). After the elaborate speech of the Honourable Pandit I do not think it necessary to make any long speech in support of the amendment which he has moved. (*Honourable Members* "Louder please.") I must confess to some feeling of sympathy with the Honourable the Home Member in the embarrassment which he felt in his opening remarks. I noticed a confusion in his mind at first as to which was the majority report and which was the minority report. I think that he was justified in his confusion as I believe it is an open secret that but for the trammels and conventions of office one of his colleagues would have actually signed the majority report. (*Honourable Members* "The minority report") (Loud Laughter) Yes the minority report. The recommendations of the majority are recommendations from which I do not dissent. As a member of the minority of that Committee I may say that we approved of almost all the recommendations of the majority so far as they went, but at the same time we expressed our opinion that they were quite inadequate and unsatisfactory. It is in that view that I have risen to support this amendment. That the recommendations of the majority are so inadequate and so unsatisfying is not the fault, at any rate, to any large extent, of the members of the majority. The Committee was tied down by the restricted terms of the reference. We were asked to find remedies consistent with the structure, scope and the policy of the Act. We were permitted to investigate all the defects in the Act, whether inherent in it or in the working of it, but as to the remedies our investigations were strictly tied down. I am not therefore disposed to blame the majority for the unsatisfactory character of their recommendations, though one cannot help feeling that the members of the majority betrayed an amount of caution which was altogether unnecessary. For instance, they were not sure whether it would be wise to transfer the subject of Government Presses. They were not sure whether it would be wise to transfer the subject of Law Reports to the Ministers. The caution which was displayed by the members of the majority was perhaps commendable from their own point of view, but it does not enhance the acceptability of the recommendations which they made. Sir, the system of dyarchy is one which has inherent defects in it. It has defects which cannot possibly be cured by any regulations or rules which may be made under the Act. It is a strange thing that a system of government which was so universally condemned by all the officials before it was introduced should now find such strong champions in the official world. From Lord Birkenhead downwards to the Members of the Government of India, to the Governors of Provinces and the district officials, every official has been fascinated by the system of dyarchy. Have you been able to discover the secret of it? To my mind, Sir, it must be this. Before

dyarchy was introduced, they shied at it because it meant a limited transfer of power. After it has been introduced, they are enamoured of it, because they are convinced that you cannot go back to the *status quo* and the next step must be an advance forward and therefore it means the transfer of a larger measure of power to the people. That seems to me to be the real secret of the original aversion to dyarchy and the subsequent fondness for it which has been betrayed by the official world.

Now, Sir, with regard to the date of revision of the constitution which contains such inherent defects as have been admitted by everybody, it has been stated by the Secretary of State in his recent speech that wise men are not the slaves of dates and that the date of a further advance may be accelerated and he was even bold enough to stretch his imagination and say that developments might have been conceived in which the acceleration of the date of revision might have been recommended. Sir, it is an irony of fate that that oration of Lord Birkenhead about which so many different opinions have been expressed in different quarters should have been described by the leading Conservative organ of England as a "frigidly pompous nullity." These are the words of the *Morning Post*, as applied to Lord Birkenhead's speech and I think that description is almost entirely true of that speech. But I gather one ray of hope from that "frigidly pompous nullity" and that is that the date of revision of the constitution may be accelerated in certain circumstances. We have been told by both the Secretary of State and by His Excellency the Viceroy that it is not possible to think of accelerating the date of revision and His Excellency the Viceroy has been kind enough to warn us that if we did succeed in our prayer for the present appointment of a Royal Commission, the verdict is bound to be against further advance. What are the conditions laid down in the Preamble to the Act—that the successive stages of advance depend upon the co-operation which the reforms would receive from persons to whom new opportunities of service were thrown open and upon the extent to which confidence could be reposed in their sense of responsibility. Those were the two conditions which were laid down in the Preamble as those upon which further advance would depend. His Excellency the Viceroy pointed out properly enough that if a Royal Commission were appointed and if they were asked to come to a finding as to whether the reforms have received that measure of co-operation which its authors looked forward to, the finding might be against us, but if the members of the Commission would set unto themselves the task of finding out why it did not receive the co-operation which was expected, I think, if the Royal Commission was honest, impartial and fair-minded, they would be able to discover an answer not altogether to our discredit.

Now the question is what is the meaning of this condition of co-operation? Does the want of co-operation imply a want of capacity for self-government? What is the inference to be drawn from non-co-operation? I can only imagine one inference which can be drawn from non-co-operation and that is that if the people were entrusted with these large powers they might be tempted to use them against the power which granted those powers and might use them for purposes hostile to the British connection. If that could be a legitimate inference, I grant that the verdict might be and should be against us. Notwithstanding the very considerable amount of froth and nonsense that may have been talked in the country, I believe that the real meaning of the non-co-operation movement is this—that their

protagonists were not satisfied with the measure of reforms that was granted. They were not satisfied with the promise of further reforms which was held out in the Act and they wisely or unwisely, unwisely in my opinion, chose to refrain from co-operation. But that does not by any means imply that those gentlemen who resolved upon non-co-operation are in their heart of hearts hostile to the British connection, and the fact that they have come in in large numbers into the present Assembly and Councils shows their real desire to take part in the work of co-operation and construction. Of course now and then you may hear voices and words to the contrary but do not believe them. I believe that they really wish to co-operate as far as they can (*An Honourable Member* "Honourable co-operation") in the work that lies ahead of us. I venture to think that no real inference can be drawn against us from the absence of co-operation.

Then again, with regard to the second condition, namely, the amount of confidence which could be placed in the sense of responsibility of the people to whom new opportunities were granted, I ask whether there has been anything to show that there has been a genuine lack of a sense of responsibility. I appeal to your experience in the first Legislative Assembly. The second Legislative Assembly has no doubt been diluted to a large extent with men of a different shade of views. During the term of the first reformed Assembly and Councils, all over the country, you received the fullest measure of co-operation that you had any right to expect and, after all the co-operation that you received and after all the tributes that you then paid to our sense of responsibility and to the work that we did, is it fair on your part to turn round upon us now and say that you could not place any reliance upon our sense of responsibility? Your experience of the first Assembly and of the first Councils ought to convince you, if you keep an open mind, that full reliance can be placed upon the sense of responsibility of the people. I regard it as a very happy omen indeed that one of the most prominent Members of that Party which believed in non-co-operation is now occupying a place of great responsibility here. Would you have thought that the fierce Extremist who glowered with baleful eyes at the occupants of the Treasury Benches, whom he regarded as the representatives of a Satanic Government, could have turned into a grave, dignified and impartial President? (Applause.) What further illustration can you want of the fact that it is the opportunity of responsibility that is wanted and that will make people sober and rise to the needs of the occasion? (Hear, hear.)

Sir, now I may ask, why is it that many of our people and several of the leaders have thought fit to resort to non-co-operation? One at any rate of the reasons for their conduct seems to me to be this, that they are not convinced of the sincerity of the professions of the Government. (Hear, hear.) They believe that however big may be your talk of setting India on the goal to responsible government, you do not in your heart of hearts mean it. (Hear, hear.) If these people could have been assured that within any reasonable distance of time, no matter whether it be 10 years or 15 years or 20 years, you would grant responsible government, and if they could have been satisfied of its sincerity, I am confident that their attitude and policy would have been different. But you may very well ask "Have we not always been profuse in the declarations of our intention to grant self-government? And what right have you to attribute any lack of sincerity to His Majesty's Government or to the agents of His

Majesty's Government on the spot?" For my purpose, Sir, I do not think it is necessary to go further than advert to the one topic which occupies unfortunately a great deal more of my attention than any other. Take your attitude with regard to the Army (Hear, hear) Take the question of your military policy. Four years ago we passed a set of Resolutions recommending a change in the attitude of Government and recommending a policy of Indianization, and we asked that steps should be taken without loss of time to prepare us for the ultimate goal of responsible government. These Resolutions, I am glad to be able to say, were passed with the concurrence of the Government of the day. But four years have passed, and almost nothing has been done. And what is the result of all this agitation that was carried on, of the Resolutions that were passed during the last four years? They present us with that miserable bantling of the eight units scheme. And Lord Birkenhead says "It is an experiment which must be tried out, and until it is tried out, you cannot expect any further advance." This is not the time to enlarge upon the defects of the scheme. One thing only it is sufficient for me to point out here, and it is this. As Lord Birkenhead very properly points out, it takes a man 25 years to rise to the position of a Colonel in the Army. If you want to judge of the success of the eight units scheme, at least 25 years must elapse, and after those 25 years have passed, whether any more units should be Indianized would be a question which would be left to the British people to decide. Probably, they will say, "We are willing that twenty more units out of the 75 should be Indianized." (*An Honourable Member* "140") I am not sure about the exact number. I am referring only to the Indian units. They may say perhaps that another 20 units might be Indianized and at that rate the Indianization of the whole army would take not the period of one generation, nor even of two generations, but would take us probably to the Greek Kalends. That is why Lord Birkenhead states in one part of his speech that at no foreseeable future could he see the time when it would be possible for England to abandon this trust. Now this term "trust" has appeared only too often in the writings and speeches of English statesmen. I am afraid, Sir, that very often it is vested interests which masquerade under the title of guardianship, mandates and trusts (Hear, hear). Now, I am not one of those who find fault indiscriminately with the Government. I am willing to give their due to the Government for all the blessings they have secured for this country in the way of peace, security and order. I am willing to give them credit for all the economic improvements they have effected.

**Mr President** I must ask the Honourable Member to bring his remarks to a close.

**Sir P S Sivaswamy Aiyer** Now with all that, what I submit is that it is impossible to credit the sincerity of the professions of people who believe that their trust cannot be abandoned at any foreseeable future. Having regard to that statement I ask whether the attitude of disbelief and distrust on the part of a great many of my countrymen is not to a large extent justified. I will only add this, that from the point of view of the Government themselves it is necessary to revise the constitution. Here you are faced with deadlocks many a time—with an elected majority and a small minority of officials and nominated persons, unable to carry through legislation faced with the necessity of certification, and unable to do what you really wish to have done. But I am afraid that you will be deaf to the voices of the friends as well as the foes of the British connection with

the result of increasing bitterness against the Government and increasing distrust of its intentions—factors, mental factors, which are not conducive to a wise or well ordered administration

Sir, I have only one more remark to make. I am glad to find that the Resolution now proposed substantially reproduces the demands of the Liberal Party. It embodies the Resolutions of the Liberal Party and then demands and it is a great gratification to me that the Swaraj Party, which has long been wandering in the barren wilderness of non-co-operation, has now come back to the path of co-operation and constructive effort. Complexities and difficulties have been pointed out or referred to by various persons, by His Excellency the Viceroy now and by Sir Malcolm Hailey in the past. They do exist, we are not unaware of some of them. But if you only set yourselves to the solution of these difficulties, I am confident that a solution can be found. It is not for us to embark now upon a scheme. It would be a waste of time and effort. Let us know whether you mean to adopt suggestions from us now and it would then be time for us to evolve some scheme which will command a wide measure of popular support. I have one more word to add, and it is this, that it is no use to found yourselves upon self-righteousness. The foundation upon which a great Empire should rest is not self-righteousness, but righteousness.

**Mr H G. Cocke (Bombay European)** Sir, when I joined this Assembly two years ago, like others here, I was new to higher politics. But we had not been in the Assembly very long before we had what has come to be known as the round table conference debate. I did not speak on that debate and I have not before to-day taken part in a political debate. I do so now with considerable diffidence because I feel that this is a subject upon which Home Members, lawyers and politicians have every right to speak, but the ordinary business man, or the man engaged in a profession other than the law, is perhaps rather out of his depth. Sir, two things struck me in connection with that debate at Delhi. One was the remarkable unity of Indian opinion which coming to the Assembly for the first time, was to me very striking, and the other thing was that the debate was very largely theoretical and not very practical. It seemed to me, Sir, that speaker after speaker refused to face facts. The peculiar difficulties under which India labours, the fact that India is not a nation, but a Continent, consisting of a vast variety of races holding different views, and only too anxious on occasions to get at each other's throats, all these factors make the problem a very difficult one, which however has got to be faced. It is no good evading the real issue. For many reasons, I was sorry no round table conference resulted from that debate, because I thought that if it had been possible to construct a round table large enough to seat all the representatives who would have been entitled to make their different demands, the result would undoubtedly have been, not one report, but several, and that Conference would have carried us very little further. Sir, what kind of difficulties are there that make this problem so acute? No one to-day has referred to the position of the Indian States, no one to-day has yet referred to the question of attack from the sea. That is a thing which may come before we realise it. No one has referred I think, to any great extent to law and order, to communal differences and the vast differences of caste and creed which, as I have just said, make this problem one which



cannot be compared with constitutional problems in other parts of the world. The Honourable Pandit in the course of his remarks made several comparisons with different parts of the world, and we have heard them in other debates too. But the facts are, as I am sure, we all realise, even if we do not express them, that there is no problem, as far as I know comparable with the one we have to face here. Sir, the immediate point for consideration is the recommendations of the majority report. I do not profess to be an expert in building constitutions or criticising constitutions, but I have read this report very carefully and it appears to me that the recommendations made by the majority committee are well worth giving effect to, and I can see no logic in the arguments of the Honourable Pandit, and of others who think with him, especially when it is admitted in the minority report that some of the recommendations, at any rate, are worth something. I see no logic I say in casting those recommendations aside, simply because they do not go as far as some would desire. You are not going to bring the day of advance any nearer by refusing to make these amendments in the Government of India Act. On the other hand, if you make them, and if you work this constitution in a way that it has not yet been worked, I venture to think that the further advance, which is being striven for in all directions, will be achieved much earlier. Therefore, the amendment, in my view, should not have been an amendment to the proposition, but an addition to it.

I confess myself as being somewhat out of my depth in looking through this amendment, and I wish the Honourable Pandit had issued it with an explanatory handbook.

**Mr M A Jinnah** For merchants

**Mr H G Cocke** And for lawyers

Sir, in the course of these debates we are frequently told that India has made indifferent and insufficient progress in the past, and that this advance in government is required to enhance that progress. I have been looking through "India in 1923-24," prepared by Dr Rushbrook Williams, and I have been examining some of the charts which he has prepared. With your permission, Sir, I should like to give just a few figures from those charts to show the progress which has been made, and to suggest that we shall run the risk of abating that progress by too hasty attempts at new forms of government. The particular charts I should like to draw attention to are firstly No 11, Canal Irrigation in the Punjab. Taking four periods of ten years,

in 1892-93, 3 million acres were under irrigation,

in 1902-03, 5½ million acres were under irrigation,

in 1912-13, 8½ million acres were under irrigation,

in 1922-23, 11½ million acres were under irrigation.

Now let us take chart No 5 giving the total exports and imports.

The average of the five pre-war years 1909-14 was 380 crores.

In 1921-22 was 540 crores.

In 1922-23 was 560 crores.

Now let us take the Railway mileage charts Nos 12 and 13.

In 1872 we had 5,369 miles

In 1922 we had 37,266 miles

In regard to postal traffic, these are the figures (Chart No 17)

	Postal traffic millions of articles carried
1881-1922	170 millions
1901-1902	580 ..
1921-1922	1460 ..

Then look at the charts dealing with thrift and the co-operative movement. I merely cite these figures to show to the House what progress has been made. Now, one word about education, which, we are often told, is not progressive in this country. Admittedly it is in its infancy, but while in 1880 two million pupils were under instruction, in 1920 there were 8 million pupils under instruction. Then again, while in 1890, 1½ crores were spent on education, in 1920 we spent about 11½ crores. I merely quote these figures to the House to show that these charts are well worth studying, as they do show a very remarkable trend of progress in the last 40 or 50 years. I would therefore suggest to the House that before embarking on any violent change of Government, it is well worth considering what effect any chaos which might result therefrom would have on the progress to which I have drawn attention.

**Diwan Bahadur T. Rangachariar** (Madras City Non-Muhammadan Urban) To speak or not to speak was the problem which I was cogitating about the last two days. I have had bitter experience in this Assembly of wasting my words, and I was wondering whether this was going to be another occasion in which words are going to be wasted. Sir, there are people who believe that the British are an insincere lot. There are some of us who believe that they have not yet come down to that stage. After reading the speeches of Lord Birkenhead in the House of Lords and Earl Winterton in the Commons, and after hearing His Excellency the Viceroy from that place, Sir, the doubt crossed my mind whether really any profitable discussion is going to be had on the floor of this House on this report—profitable to Government, not profitable to the House. The object of my taking part in this discussion is to speak to the Treasury Benches, through this House, on the seriousness of the question which they have to consider to-day. There are two issues before us. One issue is raised by the Honourable the Home Member, for discussion, I take it, not that the Government have come to final conclusions on the matter, but that they have come to provisional conclusions which they want this House either to endorse or reject. Sir, I have no doubt in my mind to reject one part of the proposal made by the Honourable the Home Member, while I am willing to accept the other part. The first and the most fundamental part of the Honourable the Home Member's proposal is, "Accept the principle of the majority report." And what is that principle? Leave the constitution as it is, but make minor changes here and there. By all means make minor changes, but as practical statesmen, may I ask you, what was the object of this inquiry? What is the object of this discussion? What is it you are now bent upon? What was the object of the reforms? After more

than a century of British rule, the declared object was to train people in the art of responsible government, not merely to make a few people good administrators. The object was not merely to create A, B or C as good Ministers. The object, the more laudable object, the more real object, was to train people in the art of responsible government. It is that question which you have to face as statesmen. Are you satisfied that the recommendations made by the majority will satisfy that test? Is the machinery which you have now devised and which you have now closely examined with the help of the materials which you had fit to train the people in the art of responsible government? Sir, I ask every member of the majority in all honesty to put his hand to his heart and answer that question honestly. I ask him of his experience in this very Assembly. I am not now going into the question of dyarchy. I am more familiar, Sir, with the Central Government. I lent my apprentice hand to the working of the reforms, honestly, sincerely, and lent my wholehearted co-operation to the working of the central constitution.

**Mr T C Goswami** You wasted your energy.

**Diwan Bahadur T Rangachariar** What is my experience? My ideas are well conveyed by Sir Alfred Mond when he spoke in the House of Commons. He has beautifully expressed the position of the Central Government. Speaking in the House of Commons, this is what Sir Alfred Mond said:

"The creation of a Parliament such as we have created, with certain powers and yet without responsibility, raises questions of the very gravest difficulty. I remember very well listening to a debate in the Delhi Assembly, when the Budget was thrown out by that Assembly. Member after Member got up and said that, of course, they could quite easily reject the Budget, because it was certain that the Viceroy would certify it and the country would go on just the same."—*This is for the benefit of the Honourable the Finance Member—(The Honourable Sir Basil Blackett "This was not last March") (An Honourable Member "It refers to 1924")* "That is one of the evils of divorcing responsibility from power."

**The Honourable Sir Basil Blackett** That is the old days.

**Diwan Bahadur T Rangachariar** This is under the new constitution.

well-being of the country when we know perfectly well that our votes do not count, that you are there irremovable, immovable (*An Honourable Member* "Like the Himalayas") sitting on the Himalayas? Did the majority face that question? Did they interest themselves in that question? I quite agree that by the terms of reference their hands and feet and tongue and pen were tied. But who is to blame for that? Not we. We urged times out of number that the terms of reference were too narrow, too limited, and that they would bring no satisfaction. Now, what are the disclosures made? They are there. The majority have in numerous places referred to the defects, I will only give my reference to the pages, and they say that by the terms of reference they are unable to go into them (Pages 1, 24, 25, 97, and 106). May I ask, what is it you are doing now? Why do you ask us to accept this principle of stagnation? They say they are not slaves of dates. But, Sir, they are slaves of phrases. If really it is your honest conviction that you are going to stand by the Preamble of the Government of India Act, 1919, if you are going to stand by it, why invite all this farce of discussion to-day? Why pretend that you are going to profit by the debate, in this Assembly? What is the use of discussing this question and asking us to extend the hand of comradeship, the hand of fellowship and friendship? To what purpose I ask, if you are going to stand, as the Honourable the Home Member told us to-day that he is going to stand by every word of the Preamble? If so, say so at once let us part company, I shall say goodbye to this Assembly. I do not do any useful work. I am speaking in all seriousness to the Treasury Bench, to whom is committed the charge of 320 millions of civilised people—I ask you to take note of it. Here I present you two great individuals to-day. Here is my Honourable friend, Pandit Motilal Nehru offering his hand of fellowship. Here is my Honourable friend at the other pole, Sir Sivaswami Aiyer, asking you to grasp that hand. I ask you in all seriousness, what is the significance of this action to-day? Consider it carefully. Do not scoff at it. There are difficulties. You are there to overcome difficulties. Did you not overcome difficulties with the great Germans? (*An Honourable Member* "They create difficulties") Did you not overcome difficulties in Canada, in Australia, in Africa and other places? That there are difficulties I do not deny. The very presence of my Honourable friends, Colonel Crawford Mr. Cocke, Mr. Kabeer-ud-din Ahmed—they are difficulties to deal with. Deal with them mercifully, deal with them sympathetically by all means. I know for certain that my Honourable friend, Mr. Kabeer-ud-din Ahmed is not serious in his interruptions. His great community I know, whether they are Khilafatists, or otherwise,—the Muhammadans I may take it, I hope I speak with the authority of the Muhammadan representatives here when I say that the Muhammadan community is as eager as anybody else to get this constitution put on a sounder basis than it is to-day. If there is any Honourable Muhammadan gentleman who thinks that this constitution is satisfactory and does not demand an immediate change, let him rise and I will bow to him. Sir, what is the evidence placed before you? Even my Honourable friend, Mr. Kabeer-ud-din Ahmed dare not rise, he knows the mind of the people. Different people claim to speak on behalf of the masses. I claim to speak on behalf of the masses. Colonel Crawford claims to speak on behalf of the masses, and I do not know who else claims to speak on behalf of the masses. I do not think any of us should bother ourselves much about that. What is the object of a Government? To deal with the intelligentsia of the people. Now you have the intelli-

gentsia of the Indian people, from His Highness the Aga Khan downwards. You have Sir Ali Imam, Sir Krishna Gupta, and various other gentlemen who have occupied positions of responsibility and power, and what is it that they say? Is there one dissentient voice among the intelligentsia? However much they may differ on the question of communal electorates, whether there should be reserved seats, or more seats than ten, or whether the number of seats should correspond to the population, and all that—whatever differences there may be they are on matters of detail, but on the fundamental points which are embodied in the amendment and which are now placed before the House I claim that there is not a tittle of difference of opinion, among the Indians. I do not count my Anglo-Indian friends in that though I wish they could join us in the matter, nor do I claim to speak on behalf of the Anglo-Indian friends. But I claim to speak on behalf of my Hindu friends, Mussalman friends, Indian Christian friends, Parsi friends, Punjabi friends, Sikh friends, Madras friends, non-Brahmin friends, Brahmin friends, Maharatta friends, non-Brahmin Maharatta friends—by whatever name you may call them, and there is no recognisable difference of opinion on fundamentals. I am glad that my Honourable friend, Pandit Motilal Nehru who has so far stood out of this programme has to-day joined us in making this demand. We, Liberals, Moderates, Conventionists, Besantites and what not—all of us have been of this opinion, but my Honourable friend Pandit Motilal Nehru stood out of this, but I am glad that he has joined us. (*An Honourable Member* “Will you join in the means?”) That is another question. We are now to-day offering you in the shape of this amendment this hand of fellowship. We are not offering it as a menace. It is offered purely out of sincere friendship, it is offered purely out of sincere conviction that you should embark upon an examination of this constitution agreeing to some of these fundamental, if not all, so that we may come to an amicable understanding, so that the brains of the country may be devoted to some more useful purpose. For the last five years what is this spectacle you are witnessing? You are supposed to be in charge of the best interests of the country. What is the spectacle you are witnessing during all this time? What are all these brains and the brains outside doing? Should they not be devoted to constructive work, to develop industries, to foster education, to increase irrigation works, to give you ideas and work them out? What is it you have done by means of these reforms? You have driven the whole brains of the country into an agitation. “This constitution is bad and give me another constitution.” You say “I do not know whether it is good or bad. You try it. You try it.” Are you so barren of statesmanship that you cannot take the people off this agitation and set them to honest, earnest, constructive work? That is the appeal I make to the Treasury Benches. Do not think that we have come here to wrangle. We have not come for that purpose. We have come here so that we may come to a proper understanding of the question. You had better take the people off to other channels that they may not think of the constitution, by putting it on a firm automatic basis. Create a machinery for examination, let us all examine and put the constitution on a firm basis. In the meanwhile we will extend to you the hand of co-operation and try to improve the conditions of the country.

**The Honourable Sir Charles Innes** (Commerce Member) I thank you, Sir, for this opportunity of intervening in this debate. I think that it is important that I should explain at a comparatively early stage the

attitude of Government in regard to the amendment moved by the Honourable Pandit Motilal Nehru I must confess, Sir, that I was genuinely disappointed when I saw that amendment I am an incurable optimist and I had hoped that the speeches of the Secretary of State for India and His Excellency the Viceroy would have had some effect upon my Honourable friends opposite I had hoped that they would definitely lay aside for the time being their demand for Swaraj and would have set themselves soberly and wholeheartedly to work the present constitution, defective though it may be, realising as practical men that that is the surest and the most expeditious way of achieving the end they have at heart Instead of that, Sir, we have an amendment proposed in the old familiar terms I can see the Honourable Pandit Motilal Nehru in the watches of the night wearily penning those sonorous sentences and as he did so, I think he must have hummed to himself the words of the old tune

“ Come under the old umbrella ”

I congratulate him on having devised an umbrella big enough to hold both himself and my Honourable friend Sir Sivaswamy Aiyer Sir, it is easy to foretell the lines which this debate will take We have had the linked sweetness, rather long drawn out, of my Honourable friend the Pandit We have had the trenchant speech of Colonel Crawford, we have had a weighty oration from Sir Sivaswamy Aiyer, we have had the literary grace of Mr Shanmukham Chetty and, Sir, in due course we shall have the polished irony of Mr Jinnah Then, Sir, we shall get the mellifluous imaginations of Pandit Madan Mohan Malaviya and, finally Sir, if your favour extends so far, we shall come to the breezy exuberances of Mr Abhyankar, and, Sir, when all is said and done, I am afraid that no further light will have been thrown upon a subject which is already threadbare I am a man of few words, and I can promise that at any rate my contribution to the debate will not be a very lengthy one I will confine myself to restating the position of Government in the broadest and briefest possible way Pandit Motilal Nehru said he did not propose to waste the time of the House by referring to the recommendations of the majority report May I say in return that I do not propose to waste the time of the House by referring in any detail to the terms of this portentous amendment (*Pandit Motilal Nehru* “ That finishes the matter then ”) I propose to deal with the matter on the broadest lines

Now, Sir, the objective which every one of us has is the same We are all agreed that the objective is responsible self-government for India within the Empire The only difference that lies between the Benches opposite and the Benches on this side of the House is in regard to the manner, the measure and the time of the advance Now, I should like to concentrate first on that word “ manner ”, because I am afraid that it is on this point that there may be a fundamental variance of opinion between my Honourable friends opposite and the Treasury Benches As I understand this amendment, it first lays down certain principles or demands for fundamental changes in the Government of India Act It asks the British Parliament to affirm those demands and when that has been done a round table conference or some other machinery is to be devised to work out the details and to embody these demands in a workable scheme Then the decree of that round table conference is to be registered

by Parliament and the scheme is to be embodied in a Statute. Now, the amendment leaves it rather vague, purposely vague, whether the approval of Parliament to these demands is to be a condition precedent to the assembling of that round table conference (*Pandit Motilal Nehru* "Not a comma to be changed") That is precisely what I anticipated. The Honourable Pandit Motilal Nehru has told us that he has given us the hand of fellowship. He has said that he has made us an offer. It is true that he said it was a minimum offer. He is not prepared to derogate from his demand an iota.

**Pandit Motilal Nehru** May I explain myself, Sir. What I meant was that any scheme which has been devised by representatives of all interests sitting together in a round table conference will be in its very nature a scheme in which no comma or full stop can be changed as we shall all be parties to it. That is what I meant.

**The Honourable Sir Charles Innes** : I gather from the Honourable Pandit sitting opposite that he has not changed in the very slightest respect from the opinion which he expressed in February 1924 in this House. Then, Sir, I can only express my surprise at the congratulations which my Honourable friend Mr Rangachariar extended to himself for having roped in the Swaraj Party. As far as I can see my Honourable friend Mr Rangachariar and my Honourable friend Sir Sivaswamy Aiyer have been led kindly but firmly into the parlour of Pandit Motilal Nehru (*Mr A Rangaswami Iyengar* "We were together last year too"). I am glad that Pandit Motilal Nehru made that interruption. For it has, I think, clarified the position. As I understand it, this amendment is intended definitely to repudiate the Preamble of the Government of India Act. It is intended definitely to repudiate in particular those words

"The time and manner of such advance can be determined only by the British Parliament upon whom responsibility lies for the welfare and advancement of the Indian peoples"

The amendment is definitely intended to challenge the proposition that any extraneous authority, whether the British Government or not, can settle these matters for India. If that is the position (*An Honourable Member* "Quite right") then the House will realise that Government must oppose this amendment and oppose it in the most unhesitating and plainest fashion. That is not a proposition which we can accept (*An Honourable Member* "You are bound hand and foot"). The Secretary of State in his speech, to which frequent reference has been made to-day, has said that the permanent and static effect of the Government of India Act lies in the Preamble. On that basis, he appealed for the co-operation of India. This amendment in effect means the rejection of that co-operation. It says, "We repudiate your Preamble and we refuse co-operation on those terms." Well, Sir, we are few in numbers on this side of the House, and we cannot stop the House from passing this amendment. But, Sir, I hope the House will realise that if they do pass this amendment they will be committing a very grave mistake. The offer of co-operation has been made to you by His Majesty's Government. The effect of this amendment will be to reject that offer with contumely and defiance. I can only say that that is a very grave mistake. The Honourable Pandit Motilal Nehru said that there was no sanctity in preambles and that preambles could be altered. That, Sir, is perfectly true. But my Honourable friend has omitted to notice that that Preamble states a claim on the

part of the British Government, a claim from which this House cannot be allowed to derogate in any way at all. The British Government hold the responsibility for the people of India, not for one section of the people, not for the intelligentsia not for the people that I see round me in this House, but for the whole people of India. That is the claim that is stated in the Preamble and that is the claim which we on the Treasury Benches cannot allow you in any way to diminish or derogate, and if you ask me, Sir, what right we have to make that claim I can answer you in a very few words. (*An Honourable Member* "Divine right")

**Diwan Bahadur T. Rangachariar** Can we not ask you to depart from it?

**The Honourable Sir Charles Innes** You can alter the Preamble but you cannot alter that claim. I will tell you why, if you will give some little time. For the last one hundred years or so, almost by accident certainly not by design, the British Government have assumed responsibility for India. They assumed responsibility, not merely as I said, for one section of the Indian people but for India as a whole. In the course of that 100 years we have given you what you never had before. We have given you peace. (*An Honourable Member* "Emasculation") We have given you peace and good government; and I defy any fair-minded, unprejudiced man to stand up in this House and say that the effect of the British Government on India has not on the whole been very good. And now, Sir, after those 100 years or so a new generation has arisen, a new generation which does not know the horrors of chaos and anarchy, a new generation which does not know what it means, for no man's life, no woman's honour, to be safe. A fraction, a very small fraction of that generation, now comes to us and says, "Thank you—your work is done." Well, Sir, when you come to us and tell us that, we have a right to ask, in the first place, what are your credentials? (*An Honourable Member* "We are the people of the country.") In the second place, what guarantees can you offer for that stability without which the self-government that you claim will be a mockery and a danger?

I have dealt with the question of the manner, that is the easiest part of my task. I come to much more difficult questions, namely, the pace and measure of the advance. This opens up of course the whole question of dyarchy, and I have noticed that most of the Honourable Members who have spoken to-day on the opposite side have devoted themselves to proving that dyarchy is unworkable. Now, Sir, we on this side of the House have no special fondness, to use Sir Sivaswamy Aiyer's phrase, for dyarchy. We do not claim very much for it. All we claim for it is this, that it was the best device, the best instrument that we could devise, for this transitional period when you are advancing to full self-government. Whatever you may say against dyarchy, you must admit this that it was at any rate an honest attempt to transfer, not the whole responsibility but partial responsibility to the representatives of the people. What we claim for it, Sir, I say, is that it was the best device we could think of for this transitional period. And it is a curious fact that the amendment itself admits the need for a transitional period and also the need of dyarchy in the Central Government in that transitional period. (*An Honourable Member* "Question") But I do not wish to take up debating points of the kind. I am quite prepared to admit that dyarchy is difficult to work, but we do not admit that it is unworkable. I



not wish in any way to go in detail into the objections against dyarchy which have been mentioned in the minority report with that temperateness and ability which one would expect from the distinguished authors of the report. I think in essence their objections to dyarchy may be boiled down to this. Incomplete self-government is always unsatisfying. Wherever you have a country with incomplete self-government, that country is always reaching out for full self-government. People who have only got a part of what they want take no stock of what they have got, but their mouths water for that part which is still withheld from them. That I think is the reason why the Ministers of the Provinces have complained of the difficulty of working dyarchy. That I think is the reason why Honourable Members of this House think that up here they have not got all the power that they ought to have. Where you have not got full responsibility, I quite admit that a legislative body is apt to do irresponsible things. That I think is in essence the case against dyarchy. I fully admit the force of that case. All I claim for it is that it is a transitional device. But the real question is not whether dyarchy is in itself a good thing but what you are going to put in its place. Now the answer you give me at once is full self-government subject to certain safeguards. I am prepared to admit that that is the logical answer. I know that a stage where you have not got full self-government, must always be difficult. But, Sir, we have to look at the difficulties in the way of this demand for full self-government. Sir Sivaswamy Aiyer suggested that a difficulty was that we did not think there was capacity among Indians. I would like to say that we on the Treasury Benches do not claim, never have claimed, that there are not extremely able men among Indians. Indeed, Sir, it would be a poor compliment to my Honourable Colleagues on my right and on my left. Nor, Sir, is it fear of anti-British action. Nor, Sir, is it the complaint of a lack of responsibility on the part of this House. It is true that every now and then this House has passed Resolutions which I personally do not approve, but speaking for myself I may say at once that I have had the greatest help from this House. With regard to practically every Bill I have had to put before them I have had the greatest co-operation from them. It is not those reasons, not those reasons in the very least. The reasons are and I will put them very briefly, and now I come upon ground which I must tread very delicately, for I would like the House to believe that I would not willingly say a single provocative word that would in any way raise the temper of this debate. The first point I wish to submit to the House is, just look at the mere size of India. (Laughter.) Mr Ranga Iyer with his usual eloquence referred me to Canada. Canada, Sir, is a big country I admit, but does Mr Ranga Iyer realize the exact population of Canada? It is about 16 million people, and in India you have got 320 millions. Now if there is one thing that we know about democratic institutions more than another, it is that democratic institutions ordinarily have flourished best in small communities. They have never yet been tried anywhere in the world on the scale which you ask us to try them at once, here and now, in India. That is the first point. The second point—and here I must myself keep off forbidden ground—is this. I will give you one quotation from Lord Bryce. I think the whole House would admit that Lord Bryce was a perfectly impartial philosopher. In fact I think you will all admit that his book on *Modern Democracies* was not written with any reference to India. (An Honourable Member “It was not”) “reactionary Liberal”) Let me read to you a few words

“ Social structure is an important factor Where men are divided by language or by religion or by caste restrictions grounded on race or occupation, there are grounds for mutual distrust and animosity which make it hard for them to act together or for each section to recognize equal rights in the other ”

Now, Sir, my friend, Mr Rangachariar and some other Members of this House will remember the very remarkable speech delivered in September 1921 in this House by Mr Clayton He was talking on the same subject that we are talking about to-day, and he quoted from a Spanish-American philosopher, Mr *Georgé Santyana*, a man who also was not writing with any special reference to India at all The main point of Mr Clayton and of his reference to this philosopher was this, that in any country where you wish to set up complete self-government, you must first have what is called fundamental unanimity Now I think you will all agree with me that that is absolutely necessary Unless you get that fundamental unanimity, you have not got that guarantee of stability which you must have unless your self-government is to be a positive danger

Now, Sir, if I may

**Diwan Bahadur T Rangachariar** Unanimity amongst Indians ?

**The Honourable Sir Charles Innes** I say, Sir, that that fundamental unanimity is not present in India to-day

5 P M

If my Honourable friend Mr Rangachariar will examine his own conscience honestly, he will agree with me

**Diwan Bahadur T Rangachariar** I have examined it very carefully

**The Honourable Sir Charles Innes** Then, Sir, let me quote one more passage from Bryce It is a very short one What Bryce said was this

“ The very notion of establishing a Government by the votes of citizens and controlling the action of a Legislature and an executive by holding the representatives responsible for the use they might make of their power, was not within the horizon of the vast bulk of the colonial subjects of Spain much less could they work the elaborate machinery of two Legislative Houses with an elected President and his Ministers ”

And what was the result ? The result was that in those Spanish American Colonies, there was, in the words of Bryce “ a long welter of revolutions and dictatorships ” There is our dilemma On

the one hand, you have a desire, a perfectly natural and perfectly legitimate desire, which we on these Benches respect to the full You have a desire for advance and indeed for full self-government On the other hand, we cannot help seeing the grave dangers of that advance being too premature It is just as if we were on the edge of a cliff and at our feet there were a deep abyss On the other side of the abyss there is a cliff covered with flowers Honourable Members opposite fasten their eyes upon those flowers We, by our training, by our temperament, it may be, we cannot help thinking mostly of the abyss And that is the difficulty to-day (*Mr A Rangaswami Iyengar* “ That is the real difficulty ”) I am quite sure that the next question will be this You will say, the House will say, to me, “ Yes You say this now, and you will say it also in 1929 , and you will go on saying it You are merely saying it, because you want to find excuses for delay ” I admit, Sir, that that is the real difficulty of the case I admit, Sir, I personally have got no solution to offer for that difficulty, and I do not believe that anyone of the Honourable Members opposite has any solution for it ”

that is why we, His Majesty's Government and the Government of India, feel that the only possible way of finding a solution of these difficulties is to have an examination by a perfectly impartial Royal Commission Pandit Motilal Nehru will say : " We can give you a solution " ? He cannot give us the solution because he is too closely connected and too narrowly concerned We cannot offer a solution for the very same reason I agree entirely with the Honourable the Leader of the House that that problem that we have to face in India to-day is probably the greatest political problem that has ever taxed the ingenuity of man I believe that with all my heart and with all my soul We say that for the solution of that problem we must get the greatest brains in the Empire Indian and European must work together in the solution of that problem

**Mr. A. Rangaswami Iyengar :** That is what we want That is our Resolution

**The Honourable Sir Charles Innes** I am very glad to hear that, and we must also have the help of His Majesty's Government But, believe me, Sir, when we talk about co-operation in the solution of this problem we must clear our minds of all cant Let the co-operation be real, let there be no spirit of bitterness Let there be no spirit of hatred, malice and all uncharitableness It is, as I say, the greatest problem that has ever faced the world, and if we are to solve this problem, we must attack it in the words of the English Prayer book " With a humble and contrite heart " We must try to rid our minds of suspicions of one another Sir Sivaswamy Aiyer told us that we are not sincere I have served India for 27 years now and I can assure him that I am as sincere in my desire to find a solution of this problem as he can be himself I am aware, Sir, that I am offering you merely a negative solution, and I am afraid that I have not satisfied the House by what I have said But, Sir, we, in the Government, we probably see more than you who are outside You in this House, you are disappointed when your Resolutions are not accepted You are disappointed that your Bills do not go through as rapidly as you think they ought to Believe me, Sir, those are unessentials We, who are inside the Government, see that the tide is flowing very much faster than this House realises it I say it, Sir, but it is no comfort to me to say that, because I, Sir, am a Conservative, you may even call me a die-hard But whatever I am, I stand for India I hold with all my heart and with all my soul that if England leaves India one day before her mission is done, if indeed she weakens her hold one day before her task is finished, then I believe that the consequences for India may be disastrous But whatever the effects may be, whatever the effect on me may be, I have no doubt myself looking back on these last 4 years that the progress has been far more rapid than anyone in this House believes When I reflect how the policy of the Government of India has been informed by Indian ideas, when I look upon the rapid Indianization of the services, then, Sir, I feel that the Honourable Pandit Motilal Nehru may say, and that truly, in the words of Arthur Hugh Clough

" For while the tired waves, vainly breaking,

Seem here no painful inch to gain,

Far back, through creeks and inlets making,

Comes silent, flooding in, the main."

Pandit Motilal Nehru Sir, in view of the fact that my Honourable friend when he rose said that he was going to explain the attitude of the Government, may I be permitted to ask him a question? As you will remember, I said in the course of my speech that the amendment I was proposing was in the nature of a proposal. Has the Government got any counter-proposal to make, or is there none? That is the question I want to ask.

The Honourable Sir Alexander Muddiman. Sir, I will deal with that point when I speak on the amendment.

Mr T O Goswami (Calcutta Suburbs Non-Muhammadian Urban) You will agree with me, Mr President, that it is not easy for me to follow the champion debater on the Government side. But I have this comfort that the Honourable Sir Charles Innes is invariably less formidable when he strays outside his own subject of coal and steel and deals with theoretical questions and moral issues. I wonder if he has heard of the cypher that in little place attests a million. I think Sir Charles Innes has sufficiently reinforced the Honourable the Home Member's speech, which had very little consolation to offer to either to himself or this House. He has added a cypher to Sir Alexander's great account. Sir Charles Innes is always on very delicate ground when he gets out all his statistics about steel and coal and discusses moral issues, and I found he was on particularly slippery ground when he talked of not only Bryce but George Santyana. Well, Sir, I shall not hold a scholastic controversy across the floor with Sir Charles Innes.

Sir, I thought Sir Sivaswamy Aiyer answered Colonel Crawford very effectively by a question, namely, which is the majority and which is the minority report? Handy dandy, which is the ghost, which is the man. The only substantial point which Colonel Crawford attempted to make was the point that perhaps the minority members of the Committee had started with a bias. Now, we have definite evidence, by the admission of the Honourable Sir Muhammad Shafi, that the Government members who went into that Committee did not go with a free and unbiassed mind. Nay, more, their consciences were shackled by—I shall use a very mild expression and even borrow a phrase from—Sir Sivaswamy Aiyer—the trammels of office—I am tempted to use much stronger language.

Sir, I was very greatly surprised to find that, long before Lord Birkenhead's celebrated statement in the House of Lords, my countrymen were eagerly expecting a declaration of any importance from that quarter. I do not know if I should be violating any convention if I read from a letter which I addressed to my late Chief, Mr C R Das, on the 10th of June from London and which arrived unfortunately a few days after his death. This was my impression of the situation in England about a month before Lord Birkenhead's statement.

"The atmosphere here is not hostile to India, but I do not see any real desire to settle the Indian question. And why should there be? Lord Reading must be glorying in the success of brute force. As for Birkenhead, *—here I omit a few compliments—* 'a brilliant man, a blustering debater, it is only the lime light he cares for. It does not seem to me that he has made any effort to understand the Indian problem, and the discussions with Reading must be very one-sided indeed. Expect nothing from Reading. Nor do I think it advisable to seek a settlement. The slightest hint that we want a settlement puts the back up of these people. I do not know if there is morality in politics. Certainly there is none in British or Indo-British politics, so that you can never get them to appreciate the moral justice of a settlement.'"

I subsequently found that my countrymen were agitated and disappointed by Lord Birkenhead's speech. Of that speech His Excellency Lord Reading the other day said in this House

“ It cannot be doubted that his survey of the situation ”

That is to say, the survey of the situation by Lord Birkenhead

“ formed an important event in the history of political development in India ”

Sir, the history of India must indeed be a record of very poor and trivial events if we are constrained to endorse this quixotic hyperbole. I remember Lord Birkenhead reading out—the elocution was beautiful—from his carefully prepared manuscript on the 7th July, in the House of Lords. I should like this House to consider the antecedents of the man whose well prepared rhetoric we have been asked to take seriously, either as words of the oracle or as conclusions of a profound philosopher. I acknowledge, however, that Lord Birkenhead placed us in a deep debt of platitude. Let me recall the history of Lord Birkenhead. He has made co-operation a *sine qua non* of further advance. The Party to which he belonged in 1914 spoke through its then Leader in the House of Commons as follows, about the Irish question

“ What is the position ? As my noble friend has pointed out, there is in Ulster a great army, admittedly a powerful army, thoroughly organised and now completely armed and that army has been formed openly and avowedly formed for the express purpose of resisting by arms submission to a Dublin Parliament which has been, and I suppose is to a certain extent still, the professed policy of His Majesty's Government ”

That was apparently the view of constitutionalism which not only Lord Birkenhead practised but in which he took pride and on which he thrived. Then, I remember, Sir, in 1922 Lord Birkenhead supporting the Irish Free State Bill. But before that there is another chapter of incidents which we must remember in order to understand fully some passages in his great pronouncement. Before 1922—during the years 1920 and 1921—when reprisals were rife in Ireland, members of the Government, in which Lord Birkenhead occupied the exalted position of Lord High Chancellor—I have heard with my own ears—gloated over reprisals in Ireland day after day on the floor of the House of Commons, and words like “ murderers ”, “ assassins ” were freely used in reference to Michael Collins and Arthur Griffiths, whose hands Lord Birkenhead had to shake a year later. And let me remind you of one other incident, to supply the requisite perspective. That was Lord Carson's reference to Lord Birkenhead in the House of Lords on the occasion of the passing of the Irish Free State Bill, when he reminded Lord Birkenhead of the ladder by which he had risen to power, of the hand which had guided him along the steps of personal advancement. Now I suppose we shall be able better to understand, in the light of the personal history of Lord Birkenhead, his epigram “ Wise men are not slaves of dates ”. Another sentence of his has been quoted in this House “ The door was never closed, it is open to-day ”. I am sure Lord Birkenhead has realised in his chequered career that the door can never be shut, that the door must necessarily be open. And I think, if Lord Birkenhead bars and bolts his door against this Resolution, we shall find a way of bursting that door open.

Sir, I shall not waste words in killing dyarchy after it has been scotched. After the learned discourse of my dear and Honourable friend Mr. Shanmukham Chetty I think I will leave dyarchy to die in peace.

After all, as we have been reminded by my leader Pandit Motilal Nehru, the Government of which Sir William Marris, the literary parent of the Reform Scheme, is the head, has unequivocally declared that dyarchy will not work, that it must go

I have heard it said, about Mr Das's last pronouncement in Faridpur, that that great statesman had at last learnt by experience the efficacy and the need of co-operation. His great and noble declaration has been taken as an abdication of principles for which he stood, for which he founded the Swaraj Party and for which I am sure I am right in saying, he laid down his life. There was no abdication at all. And here I come to what I really wanted to say this afternoon,—and that not to the Treasury Benches but to my own countrymen. I tell my countrymen present here that if they are not ready to prepare a sanction for this Resolution, they should not pass it. (Hear, hear.) I do not want this Resolution to be passed unless every one who votes for this Resolution is pledged to support it by action, to uphold it even unto death. (Hear, hear.) I was pained to hear two recent pronouncements from very distinguished leaders of my country. Mr Chintamani and Sir Tej Bahadur Sapru, quite recently spoke on the Reforms Report. And what did they say? They said that this constitution was entirely unworkable but that we must not obstruct that Constitution, that we must work it. I leave it to these *braves gens*, Sir, to work the unworkable constitution. But let them not vote for this amendment then, who in this House think likewise. I would rather that this amendment is lost than that one single man who votes for this amendment should flinch from the consequences of upholding it by all possible means.

Sir, there is another thing that I wish to say. We of the Swaraj Party,—I am sorry to have to repeat a phrase which I have used very very often,—are for peaceful adjustment of interests. I believe in that, and the Swaraj Party is not only committed to that principle, but has so far, I venture to say, worked for that policy. Mr Das in his last gesture probably made it more clear and manifest than it was ever made before. But, Sir, I say this, that not only are the Preamble and the Constitution not sacred to us, but that the Empire itself is no inviolable principle. There is an allegiance which transcends all other earthly allegiance, and that is allegiance to the land to which we owe our birth. We are striving after an adjustment of interests, and for that we have made what I regard as a very humble offer, what I regard as a most modest proposal. Compromise necessarily means yielding on both sides, it also necessitates respect for each other's sentiments. But one thing is certain,—and let me say it clearly—that if we cannot have Swaraj within the Empire, we shall have it outside the Empire. (Hear, hear, from the Swarajist Benches.) Have I exceeded my time, Sir? If you will permit me, Sir, I should just like to say one thing more.

**Mr President** The Honourable Member has one minute more

**Mr T C Goswami** Thank you. This is a race with time. I was going to say that a blind fortune and an erring Providence may have provided a certain number of human beings the congenial occupation of plundering and misgoverning a luckless world. But let these men remember—let them never forget—that theirs also is a sorrow “which men dare not

tell, the crowning sorrow of a trust betrayed " To me the present Government of India appear like the aged wanton, to whom Horace addressed these words —

*" Lusisti satis, edisti satis, atque bibisti,*

*Tempus abire tibi est,—ne*

*Rideat et pulset tascwa decentius actas "*

" Thou has fooled enough hast eaten and drunk enough, it is time for thee to depart,—lest one of an age more appropriate should mock and push thee off the stage "

**Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber Indian Commerce) Sir, when I saw the Honourable the Commerce Member rise in his seat to address the House, I felt that he was going to lay before the House some special reasons as to why the House should not press this Resolution which asks primarily for responsible Ministers in the Central Legislature But as I went on hearing the Honourable the Commerce Member, I felt that, if there was any modesty in the Honourable the Home Member, because towards the conclusion of his speech he said that he had not been able to rise to the heights of Sir Malcolm Hailey's eloquence or persuasiveness, Sir Charles Innes had more than made up for the defect But, Sir, it struck me when my Honourable friend Mr Shanmukham Chetty was speaking, that the Executive Councillors of the Governor-General's Council were holding an urgent meeting here, because every Honourable Member seemed to go out, and I felt that with the Honourable the Vice-President of the Executive Council who is here, it was quite possible that there might have been an urgent meeting of the Executive Council in the Executive Councillors' room over there If the decision of the Government of India to oppose this amendment is one that

deplete, I am sure the House will agree with me that the decision of the Government of India, if there was an Executive Council meeting here

afternoon to ask Sir Charles Innes to address us from the Government Benches after Sir Alexander Muddiman had moved his Resolution, was certainly a wise one For my Honourable friend Sir Charles Innes seems to have done his best to cloud the issue before the House in the amendment of Pandit Motilal Nehru, and has tried, though unsuccessfully, to draw a red herring across it He has tried to frighten, I am quite sure quite unsuccessfully, but he made an effort all right,—he has tried to frighten my Honourable friend Sir Sivaswamy Aiyer by warning him that he was walking into Pandit Motilal's parlour quite unawares But I may assure my Honourable friend Sir Charles Innes that that good turn was not needed by Sir Sivaswamy Aiyer, because let me tell my friend Sir Charles Innes that Sir Sivaswamy Aiyer, before he came up here as a non-official, was a Member of the Madras Executive Council and was a Member for law and order,—he occupied an almost identical position to the one occupied by the Honourable the Home Member here I feel, Sir, that the effort which my Honourable friend Sir Charles Innes made to frighten Members like Sir Sivaswamy Aiyer, was neither necessary nor desirable, and if he wanted to follow it up

**Mr M A Jinnah** Nor was it dignified

**Sir Purshotamdas Thakurdas** I leave it to my leader to say that And if my Honourable friend Sir Charles Innes really meant to be sincere

in that confidence, I permitted to construct him. I wish he had discussed it were it not for the Honorable Pandit Motilal Nehru who rose from his seat and put him down to mention.

Before Sir I put before the House the reasons why I feel on behalf of my constituents that the Government have a duty upon the very important Resolution, I would like to refer to one remark which fell from my Honourable friend from Bombay Mr. Coole. My Honourable friend is generally very good and very sensible and very sound and to either facts or even figures when they are before him but in this instance he appeared to me to have been somewhat confused. I think which is exceptional for him. If I asked him what he understood that he understood very little of the language of P. Mr. Madhob's amendment. Taking my Honourable friend from Poona I think I could suggest to him that he did not understand the meaning of the language in intelligence, or the circumstances, or my bias but he is a good friend and I appreciate the point where the deep pride the Indian the son of the soil. If Mr. Coole were by our side he would have no difficulty in understanding our position and he would support it both by speech and vote the amendment of P. Mr. Madhob Nohra.

Sir, I shall now refer to the Indian part of the Muddiman Report which is under discussion. The Government are appointed to the Muddiman Committee nine members, three of whom were Europeans and six were Indians. Of the six Indian, one only was a non-official and the other five were either officers with Government or had held office in the past with great honour to themselves and with great credit to the Governments for whom they held office. My Honourable friend on my left was the only person who could be said not to have been in the know of the secrets of administration. What is the result, Sir? In the division on the Report, three officials, one member representing European commerce, the Honourable Sir Arthur Froome, and one Indian who did not then hold office and who had therefore no shackle on him, voted for what is called the majority report. The other four Indians who found themselves compelled to put in a minority report—all barring my friend Mr Jinnah, held office either under the Government of India or under one of the major Provincial Governments with distinction. I believe, Sir, that if the Honourable Mian Sir Muhammad Shafi's opinion is to be taken in his capacity of an Indian without the burden of an official, the scale would change and the majority would become the minority and the minority the majority. Herein, Sir, lies the secret why the whole of the Indian public stand by and support what is, wrongly I submit, known as the minority report. To the Indian public, Sir, that is the correct report because the genuine and frank opinion of one Indian member would have made all the difference.

I wish, Sir, in a few words to refer to the Honourable Member of that Committee, the Maharajadhiraja, who though he was not burdened with office at that moment, deliberately, and I am sure quite sincerely—I have no reason at all to doubt his sincerity or honesty of purpose—but not only his signature to the majority report but, becoming more loyalist than the King himself, put an additional supplementary minute to the majority report. I will read, Sir, from one paragraph of his minute. The Maharajadhiraja says

"I, therefore, hold, there is more scope for real democracy and for our fitness to rule by working the dual constitution fully and more so."



it has been hitherto worked than there is in merely condemning it and asking for Provincial Autonomy as an immediate and irreducible demand. First let us give conclusive proof of our being able to manage successfully the partial form of Responsible Government which we have got for the first time, before advocating what would be, in the present formation of political parties in India and the existing electorates, a leap in the dark "

The Maharajadhiraja, Sir, advises us to make ourselves fit for freedom before we ask for any further advance. When I was reading that minute of his, Sir, last March, there came to my mind a quotation from Macaulay which I cannot help putting before this House. Lord Macaulay in one of his essays says

"Many politicians of our time are in the habit of laying it down as a self-evident proposition that no people ought to be free till they are fit to use their freedom. The maxim is worthy of the fool in the old story, who resolved not to go into the water till he had learnt to swim. If men are to wait for liberty till they become wise and good in slavery, they may indeed wait for ever."

I don't think, Sir, that I need comment on that part of the Report any further and I feel that the people of India are quite justified in saying that the reasoning that the Maharajadhiraja has thought fit to follow is not one which commends itself to them.

Sir, it has been said that the two great communities in India, the Hindu and the Muslim communities, are really getting wider and wider apart, that there is an increasing cleavage between these two and as long as that is not made up it is neither wise for the people nor advisable for the Government to devise any further step of political advance. Many, Sir, have been the arguments which have been advanced against this dictum. I wish to ask only one question. Do the Honourable Members sitting on the Benches opposite assure this House that they will within a stated period of time see that by continuing the administration for which they at present claim so much, these feuds and these small splashes here and there will disappear? I dealt with this part of the question in my speech on the main Resolution in February 1924 and, as other Honourable Members have addressed the House about this to-day, I do not wish to follow this up any further.

But I would like certainly, Sir, to put before the House special reasons why the Central Legislature in India should not any longer have an irremovable and irresponsible executive. Let me, Sir, put to the Honourable Members opposite the question as to how far they have succeeded in looking after the Indians who have left India and that too under Government schemes, Sir, either as coolies or as persons who have gone with the concurrence and sanction of the Government? I need only cite the plight of Indians in South Africa, of the way in which, Sir, the trust which the British claim they hold or have held from Indians has been sadly but surely betrayed and of the very weak—that is the mildest word that I can use—of the ineffective and, may I say, Sir, impotent manner in which the British Government are able to look after the bare rights of those Indians whom they sent there. I will next come a little nearer, Sir, to things at home. I wish the Honourable the Commerce Member was here. I would like to ask him, Sir, whether the way in which the Honourable the Commerce Member has looked after the industries of India at this juncture,—when industries all over the world are depressed and are passing through a crisis, when industries in every part of the world are being looked after by the Governments concerned in a manner which is paternal—

may I ask the Honourable Sir Charles Innes, the Commerce Member with the Government of India, whether he can say that, if the Executive were responsible to the people, he could afford to look after the industries from his seat on the Government Benches in the unsatisfactory manner he has done during, say, the last two years. I will, Sir, only quote the way in which the great cotton industry is being starved, Sir, without any reason and certainly in the face of and as a challenge to the greatest popular agitation that I have ever seen go on for the removal of the excise duty. Let me, Sir, put to the Commerce Member, now that he has returned to his seat, another instance. Let me ask him whether, if he was responsible to the House, he would treat the report of the Tariff Board on cement in the manner in which he appears to have treated it till now. Let me ask him whether he would reject the recommendation of the Tariff Board regarding the import duty on cement without reference to this House? Would he not bring that report before the House for their confirmation of Government's decision, if he was responsible to this House? I, Sir, do not wish to exhaust the patience of this House on these instances. But I wish to add one general remark.

I would remind the Commerce Member that the Tariff Board, whose reports he spoke of with so much approval, last year, cannot now be disowned by him so lightly, when the said Board continue their good work, and report on questions referred to them with impartiality, and with no extraneous influence working on them, as appears to be the case to the public till now. In two cases, the steel and paper reports of the Tariff Board, the Government have thought fit to override their recommendations, and offer to the industries concerned less than what the Board recommend. It would be interesting to know the reasons of Government for this purpose, but any amendment in this connection in this House would be ineffective as it would involve the finances of the Government. I venture to ask the Commerce Member to tell me whether if he were responsible to this House he would dare to take these decisions irrespective of the public feeling, and what is more important, if he would reject the report on cement by the said Board without ascertaining the wishes of the House. I feel that I must, Sir, in passing do justice to another Honourable Member with whom the commercial community has much to do. I will not, Sir, comment. I will only say to the Finance Member that, if he was responsible to this House, he would not have been able to persist for the last one year in his policy of currency and finance as he has done without giving the Assembly an opportunity to discuss it for 12 long months. I do not wish, Sir, to comment on this further for reasons which will be obvious to the House. And to the Honourable the Home Member may I ask whether it would be possible for a responsible Member of the Government of India to send out to International Conferences, for which India pays to the League of Nations at least 11 lakhs a year, deputations headed never by Indians, but always by Britishers. This year, the deputation to the League of Nations consists of, Sir, whom as non-official Indian representative? A Maharaja, a very great man—I have nothing to say against him—His Highness the Maharaja of Patiala—but can he be said in the slightest degree, I wonder if he himself claims, to represent adequately or even in the slightest degree the interests of British India. That is the manner in which the Government of India go on treating the opinions of representatives of Indians in an Assembly such as you yourself have started, and one after the other you get up and warn us that we should not go

further, that we best beware, that we best be cautious, that we should be satisfied with what you tell us is good for us. I tell the Members of the Government who have spoken till now that they would not give that advice to themselves if they were Indians. If only they were in our position, they would refuse to take that advice from any one. If they were to cross over here and we were to cross over there they would talk on this question in terms much stronger than those in which we talk to them.

Sir, we have been told, both by Lord Birkenhead and by His Excellency the Viceroy, that agriculture should command the utmost attention of the Government of India. What an awakening, Sir! After their rule for the best part of a century, after one hundred years of organised rule of India by the British Government, that day Lord Birkenhead said in the House of Lords that it is necessary to appoint a Royal Commission to go into the question of agriculture in India. The politicians of India have cried hoarse themselves for this the last 30 years and more. Did not Mr Gokhale ask for more attention by Government to agriculture? Did not Sir Phirozeshah Mehta plead for it? Did not Sir Surendranath Banerjea roar for it? In fact, who has not pleaded for it? My Honourable friend Pandit Madan Mohan Malaviya has pleaded in the name of the agriculture of India for years and to-day comes a great discovery by Lord Birkenhead that Government must appoint a Royal Commission for Agriculture. The question, however, is, when India wants to go ahead with industry, the Honourable the Commerce Member over there tells us to have patience, and the Honourable the Finance Member tells us that he must find money before he can agree to the abolition of the cotton excise duty.

**The Honourable Sir Basil Blackett** Will not a Minister have to find money?

**Sir Purshotamdas Thakurdas** He will find money under the existing conditions, both of the Government Treasury and of industries. Sir, I have not the slightest hesitation in saying, as Sir Basil would find it if he were responsible to this House to-day. I have not the least doubt that Sir Basil would not then reason in the manner he does till now—for the whole difference is that he will be a Minister responsible to this House.

**Mr President** The Honourable Member has far exceeded his time limit.

**Sir Purshotamdas Thakurdas** : I will say only one word more. I wish, Sir, in conclusion, to refer to one sentence in His Excellency the Viceroy's speech. I am reading from page 12 of the official report. Referring to his visit to London, His Excellency said

“ Throughout I was impressed on the one hand by the sympathetic good will manifested towards India and Indians and on the other hand by the determination not to be hurried by threats into premature concessions ”

Sir, realising my responsibility as representing Indian trade and commerce in this House I would be the last person to support anything which I may even suspect to be a threat for any hasty action. It is because the country and the Indian commercial community are convinced that without responsible Government and without progress on the lines indicated in Pandit Motilal Nehru's amendment there is going to be not only no relief from the handicaps we feel but there may be progress in the retrograde direction that I see no alternative, Sir, but with the freest of will and the utmost confidence and conviction to give my support to this amendment.

Mr. A. Rangaswami Iyengar (Tanjore c. m. Trichinopoly. Non-Muhammadian Rural) : Sir at this late hour of the day I do not propose to inflict anything like a big speech on the House. My intention to-day is only to refer to two aspects of the problem as it presents itself to-day. We have been told Sir that there is the utmost good-will on the side of the Government Bench. Sir Charles Innes faces the most stupendous difficulties in making progress. But what is the real position? I say, Sir that the Government of India as constituted at present is a government by a corporation a corporation which sought to own this country and to exploit it for the benefit of the company and of its shareholders in the old days and mainly of the British capitalists and services at the present day. It is still the old position in which the Government of India is treated as the agent of a corporation owning the revenues of this country owning all the vested rights that are supposed to vest in the Government in respect of the territories under the Government in India, it is that fiction which they seek to enforce by the force at their disposal, that stands in the way of our government. What is the position of the Government of India? We have been told by the Government of India Act that the whole of the territories of this country all rights incidental to and arising from and all rights of the Company the Court of Proprietors the Court of Directors and the Board of Control are all vested in the Secretary of State. Then Sir we have next been told by the Act that all the revenues raised in this country are the property of the Secretary of State in Council. We have been told by another section—section 21—that no expenditure out of these revenues or out of these properties can be made without the concurrence of a majority of votes of the Secretary of State in Council. The position then is that the property and revenues of this country are vested in a corporate body. That corporate body has the right to sue and be sued under the Government of India Act. That corporate body has the right to dictate to the Secretary of State because according to the constitution the Secretary of State has no independent power so far as the revenues or the properties of this country are concerned to act without the concurrence of his Council. Therefore, Sir, so far as the powers over the revenue or the expenditure of this country is concerned—and that is what matters in regard to the policy of this country—it is the voice not of the Secretary of State who has to be responsible to Parliament but of the Secretary of State's Council, that governs the position and it is a corporation which has neither a body to be touched nor a soul to be saved. Sir, the position is one which calls for a fundamental change and that is divestment of these proprietary rights in the governing class. So far as we are concerned we realise this and anybody who has read the Rules on Indian Audit and the sections which confer powers upon the Government of India in respect of the revenues of this country can easily understand it. So far as the expenditure and revenues of this country are concerned neither the Government nor we are free agents. The Government of India is not a free agent the Legislature is not a free agent. The Government of India exercise only the delegated authority of the Secretary of State in Council. The Government of India in this country have not the power even to ask the Legislature to pass legislation by means of which they can raise a tax and appropriate that tax to a specific purpose for the benefit of this country, because according to the view of the Government according to the constitution of this country, only

becomes the property of the Secretary of State in Council, and no appropriation can be made by any Act which divests the Secretary of State in Council of his power. That was a question that was debated in England in the House of Lords years ago, and it was then pointed out that the position of the Secretary of State in Council was unassailable in that respect. But, Sir, what more do we find?

G. P. W.

We find that the Secretary of State's Council is placed not merely in a position of irresponsibility to this country, but it has been placed technically in a position of irresponsibility to Parliament itself. Because what does section 21 say? Section 21 says that no appropriation can be made of any of the revenues of this country without the concurrence of a majority of votes of the Secretary of State in Council. That means, Sir, that even when Parliament wants the Secretary of State, a Minister responsible to itself, to appropriate any revenues for being used for some beneficial purposes in India, or what is more often the case, for using it for any of the Imperial purposes of England herself, the Secretary of State's Council can come and obstruct it. As a matter of practice, the Council may not do it. As a matter of custom, they may bow to the authority of the Cabinet, but the position is that there is a corporation which is vested with these rights, there is a corporation which possesses the power to expend our money as it pleases without responsibility either to Parliament or to any authority in this country.

The next position I want to elucidate is this. What is the real position of the Secretary of State in regard to the Services? The position here is worse. The Government of India Act which was incomplete as to financial powers until 1916, no doubt, gave the Government of India the power, delegated power to appropriate the revenues in accordance with certain rules which the India Council was then empowered and did later frame. Previous to that, it was without any rules. There was a kind of understanding or assumption, which the Government of India believed to exist, by which the Government of India spent or appropriated monies generally for the service of the Government according to certain rules which they thought were in existence and which conferred on them an implied delegation of powers from the Secretary of State. It was Lord Morley who pointed out that those powers did not exist, that the authority of the Secretary of State in Council over the expenditure of the monies of this country continued uncontrolled, that his control was absolute and that therefore, unless by means of statutory rules the power was delegated to the Government of India, what had been done was irregular. Then we had an amendment of the Act in 1916 and then they said that rules may be made by which the authority may be delegated to the Government of India and any expenditure incurred or any revenues raised in accordance with those rules shall be deemed to be expenditure incurred or revenues raised in accordance with the control vested in the Secretary of State in Council. Similar is the power reserved in regard to the other vested interests, that is, the interests of the Services. So far as the Services are concerned, then, the Government of India have no authority. The Secretary of State has no authority. The Government of India Act which sought to create the Public Service Commission and the various rules and regulations which have been framed have not sought to take away this monopoly of control over the Services, vested in the Secretary

of State's Council All the privileges which the Services enjoy are not to be dealt with either by the Government of India which may hereafter become responsible to the Legislature in India, or even by the Secretary of State who is responsible to Parliament They have purposely ruled by means of a specific section in the Government of India Act that so far as questions of the Services are concerned, the Secretary of State has no power to act without the concurrence of his Council This is again the corporation theory, and so long as the Anglo-Indian corporation theory exists, so long as this country is treated as a kind of estate in which the ruling classes shall have certain vested interests, certain privileges—so long as that theory exists, it is all idle to talk of setting us on our feet for self-government, and giving us rights of self-government Where is the proposition that is now before us which says that the Services shall be controlled by the Government in this country, whether it be the Governor General in Council as it is now constituted, or by the Provincial Governments ? As my Honourable friend rightly reminds me, we are going in the opposite direction Every step that has been taken since Lord Birkenhead came into office has been to protect, to preserve and to accelerate the privileges of the Services My Honourable friend, Sir Sivaswamy Aiyer, said that at the time when dyarchy was proposed the bureaucracy disliked it very much Now, they evince a sudden fondness for it They like it very much and they do not want to change it for the present I say the reason for that is too obvious After dyarchy was introduced, if you examine the position, the Services have profited and benefited to an extent of which they could not have dreamt if the old system had been in existence Their emoluments have been increased, their pay has been increased, by means of resolutions, commissions orders and notifications which appear in the Gazette of India every week to an extent which I cannot follow up So long as these proprietary notions exist, so long as vested interests are sought to be protected, it is idle to contend that you are serious or earnest in saying that you want to put us on the road to self-government as early as possible We will not believe it until Government deliberately and earnestly say, " we shall not continue this rule in that spirit, we shall divest ourselves of these rights " You may put the control of the purse into the hands of any authority in this country so long as it is amenable to our control We are quite prepared to make reservations, to protect interests which are legitimate and proper We are quite prepared to compensate every one of the Civil Service men who may feel himself prejudiced by anything that we may do But we shall not stand the maintenance of this corporation's existence, the maintenance of these vested rights, this continued exploitation of the country for the benefit of the British Services and the British capitalists of India

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*Tuesday, 8th September, 1925*

**Mr M V Abhyankar** (Nagpur Division Non-Muhammadan) Sir, I thank you for giving me an opportunity for intervening in this debate I rise to support the amendment of the leader of the Party to which I have the proud privilege to belong During the short space of time, however, that is at my disposal under the rules, I do not think I can do justice to that all-important amendment and to its provisions categorically What is it that we want ? - We want that the revenues of

India shall vest in the Government of India. No true Government anywhere on the face of this earth can exist without the command of the power of the purse. The power of the purse, Sir, is the key-note of the whole situation. Unfortunately, under the present regime, that power has been solely reserved to the bureaucracy, the Executive and the autocracy. What is that we want next? We want that the Governor General in Council shall be responsible to the Indian Legislature. You cannot have democracy and bureaucracy running side by side. The two things are divorced from one another. They cannot be wedded together. We want officials of this country to be the servants of the people as they ought to be and not their masters as they at present continue to be. We want the abolition of the Council of the Secretary of State and his being placed on a par with the Secretary of State for the Dominions. Under the present arrangement Sir, India's centre of gravity is in London. We want to get rid of this most unnatural arrangement. Then, Sir, we want that the Army in India shall be Indianised in a short period. We do not want again to move in the same vicious circle of no army, no full Dominion status, no full Dominion status, no army. I will not attempt here, Sir, to reply to the various arguments that are usually advanced against the rapid Indianization of the Army. They have so often been shown by many a Member of this House as nothing more than sham excuses to keep us out of our own Sir, then we want fully representative Legislatures based on a wide franchise. I would sooner be elected by 10,000 people than by 1,000 people, because then I would feel more satisfied as having been returned by a large electorate and would feel much stronger in my place. Then, Sir, we want the various Governments of the country to be responsible to the Legislatures. It is no good your merely enfranchising the people. If you want to constitute an electorate, it will not do if you merely enfranchise the people. The one thing that you must do is to make the vote valuable. If a man is asked to vote and as a result of that vote nothing happens, nothing that he can see, nothing that he can appreciate, nothing that he can reward or punish by the maintenance or the transference of his vote, you cannot train an electorate. Therefore the first necessary step in the training of an electorate is to give it power through its representatives. As a result of a vote if a person is elected and he cannot only criticise but get things done and be held responsible for the things that he does, then the man who wants to turn him out will soon make it his business to undertake the task of training the electorate to realise the importance of the vote. You must create men who will be responsible to their electorates, who will be competent and who will have the power to carry out their demands.

**Mr K Ahmed** That will take some time

**Mr M V Abhyankar** No, it will not take any time. And it is only then when such a state of affairs comes into existence that we can do something worth doing in these Legislatures, something better than merely fiercely and impotently criticising those that are in power to-day those who are the masters of the situation to-day.

Then Sir, the present Government of India Act was considered by some amongst us as the great gift of the British people to India. But

even those who were once charmed with this gift horse have now been thoroughly disillusioned after having looked into its mouth

Mr K Ahmed (Rajshahi Division Muhammadan Rural) Where were you then ?

Mr M V Abhyankar I am coming to you Mr Kabeer-ud-Din Ahmed presently (Laughter)

To-day I see very few on the side of the present constitution except those that are attached by golden hooks and they indeed inquire nothing more about any question, but what are the commands of the day ? And those who oppose this amendment demanding freedom for the people of India, like my friend Mr Kabeer-ud-Din Ahmed, I will freely admit, have more cogent reason, because it is they from whom our bondage arises

Then, Sir, the speech of the Honourable the Commerce Member, as he delivered it yesterday, I think did him great honour and very great honour indeed, because he has upheld the traditions of the group to which he belongs. Whoever heard of political reform coming out of bureaucracy and particularly an alien bureaucracy ? His devotion to the people of this country, his devotion to the masses of this country, is, I should say, something rather remarkable, but, unfortunately, Sir, devotion has often been the common veil of pernicious designs, and his speech yesterday reminded me of the wag in the play who follows an honest gentleman with " God-bless and preserve your honour's worship " while he is slyly picking his pocket ! The Honourable the Commerce Member yesterday repeated the old falsehood of the theory of Britain's trust of India. He repeated and repeated it more than once. He said that the British were the trustees and until their trust was fulfilled,—and not one day before that,—they would not depart from this country. I am sorry the Honourable the Commerce Member is not present here. I should have liked to have asked the Honourable Member who created this trust. Did God one fine night whisper it into his ears and hand it over to him ? It is not a trust, it is a huge fraud, a gigantic fraud. He said that the new generation does not know what it means for a man's life to be saved or a woman's honour to be saved. These are his words. Are we safe under the British bureaucracy and under the present Government in our own house ? We are shot down like dogs as we have been in Jallianwalabagh. Even the best amongst us, that gentleman over there, the leader of our Party whom to-day you call your Honourable friend, was his liberty safe in his own country ? None of us can escape the kind attentions of our paternal Government when it means to bestow them upon us.

Then, Sir, the Honourable the Home Member said that India was such a vast country, India was populated with so many millions of people, that it would not be possible for a democratic government to survive in this country.

The Honourable Sir Alexander Muddiman (Home Member) I said nothing of the sort, Sir.

Mr M V Abhyankar I beg the Honourable Member's pardon. It was the Commerce Member who said it.

The Honourable Sir Basil Blackett (Finance Member) I may say, on behalf of the Commerce Member that he said nothing of the sort.



**Mr M. V Abhyankar** He did say so I have just read a copy of his speech He gave us the analogy of the South American States and he said that India was such a big country, populated with so many people, that it was not possible for any democratic government to thrive in this country

**Mr H Tonkinson** (Home Department Nominated Official) May I say, Sir, that the Honourable the Commerce Member did not say it was not possible

**Mr M V Abhyankar** He said it was a new experiment That means exactly the same thing When you say it is an experiment, you say at least that it has not been possible Then, Sir, I would tell him that the history of the world is not finished yet Many chapters are yet to be added to it and we may be able to add, by the grace of God, one more glorious chapter to it The whole of India will stand as one man in a democratic government and then her power would be such that they would not be able to meet it Then, Sir, the Honourable Commerce Member said that Indians were divided, that there was no unanimity in India, and unless we got that, it would not be possible for self-government to be established here This is an old hackneyed argument I should like to make him a present here of a passage giving the conditions—that prevailed in his own country, when they were fit and quite fit for self-government (*An Honourable Member* "Are you talking of England or Scotland?") I am talking of England Lord Dunraven in "Legacy of Past Years" says

"The Penal Code came into existence under William immediately after the Revolution, and was extended under Anne and the first two Georges It affected all human action and endeavour in every form of life Catholics were prohibited from sitting in Parliament, and were deprived of the franchise They were excluded from the Army, Navy, the Magistracy, the Bar, the Bench They could not sit on Grand Juries or Vestries, or act as sheriffs or solicitors The possession of arms was forbidden to them They could not be freemen of any corporate body, and were allowed to carry on trade only on payment of various impositions They could not buy land nor receive it as a gift from Protestants, nor hold life annuities or mortgages or leases for more than thirty one years, or any lease if the profit exceed one-third of the rent Catholics were deprived of the liberty to leave property in land by will Their estates were divided among all their sons unless the eldest became a Protestant, in which case the whole estate devolved upon him Any Protestant who informed upon a Catholic for purchasing land became the proprietor of the estate No Catholic was allowed to possess a horse of greater value than £5, and any Protestant could take the horse for that sum A Protestant woman landowner was, if she married a Catholic, deprived of her property, mixed marriages celebrated by a Catholic priest were declared null A wife or child professing Protestantism was at once taken from under the Catholic husband or father's control, and the Chancellor made an assignment of income to them Catholic children under age at the time of the Catholic father's death were placed under the guardianship of Protestants Catholics were excluded from seats of learning They could not keep schools or teach or act as guardians of children"

This was the condition, Sir, of your own country when you thought that you were quite fit for self-government and were having it

**Mr President** Order, order, the Honourable Member's time is up

**Mr M V Abhyankar** I will not then quote other passages, Sir, since my time is up Indians have been led in the past to believe that the sole aim of the British rule in India was their welfare This theory which was nothing more than a mask to hide the true character of

British rule, has now been completely torn asunder. Dreamy and contemplative India cannot be deluded any more. Even the most Moderate or Moderates among us as could be seen from the speeches of Sir Sivaswami Aiyer and Mr. Rangachariar, has lost all his faith in the British people. At last he has found out that they are not gods, which he once believed them to be, and that they will not voluntarily forego the gains of power from considerations of mere justice. The Moderates no longer indulge as was said by my Honourable friend Mr. Rangachariar yesterday, in the phrase "British justice." If, and the "if" is a very big one.

Mr. President. Order, order. I cannot allow the Honourable Member to go on. Already I have given him two minutes more.

Mr. M. V. Abhyankar. I will finish in one minute, Sir. If, and the "if" is a very big one, there is such a thing as British justice, I would like to know from this House if the Irish people and the white people of Kenya had no faith in it. I can assure this House that they had plenty of it. Only whenever they wanted to appeal to the sense of justice of the British people, they also appealed to some other sense, so that two or more senses quite awake to the situation, and acting together, might result in some little justice. That is the way in the British Empire their own people have of getting things done, and that is the way they proceed to their business.

One last sentence, Sir, and I have done. We have a system of Government in India to-day which is treason to God's law, because under it the noble, free, virile, fearless, which is the red blood of a nation has become torpid and nothing can compensate us for so terrible a wrong. Wounded self-respect, complete deterioration in the manhood of the nation, economic evils of vast magnitude inseparable from foreign domination have become intolerable. The galling chains of subjection can no longer be endured by us, and we have made up our minds, I should tell the Honourable the Home Member in the end, to break those chains in spite of him and his Government. This is a critical juncture in the relations between England and India, we have now reached a stage when it is necessary for our rulers, to take advice in time before it is too late and take a bold step to bring about a rapprochement, to conciliate the people of this country, and prevent any further alienation between the two countries, and unless this is done, who can foretell what is in the womb of futurity? We on our side can only trust in God and seek from Him further light on the subject.

Diwan Bahadur M. Ramachandra Rao (Godavari *cum* Kistna Non-Muhammadan Rural). Sir, several instructive and interesting speeches have been made both yesterday and to-day in regard to the general political situation in this country and to the issues that arise on the report which is associated with the name of my Honourable friend Sir Alexander Muddiman. Sir, in the concluding observations made by my Honourable friend he expressed some amount of satisfaction that, before the end of his official career in this country, he would be able to put the recommendations associated with his name and those of the majority of his Committee into

The Honourable Sir Alexander Muddiman. No, Sir, I never said that, I said I hoped I might be able to do some small thing to improve the administrative machinery.

Diwan Bahadur M. Ramachandra Rao Sir, both my Honourable friend and my Honourable friend Sir Charles Innes referred to their long, and if I may say so, their distinguished services to this country, and if at the end of their careers in India they can only back up what I may call the very insignificant proposals which are embodied in the majority report, I am really sorry for them Sir, the Government of India is now practically in the hands of a governing class The governing class have decided the destiny of this country on all previous occasions, and Sir, the new Councils have been in existence for the last five years, and looking at the fact that the growth of public opinion is also a deciding factor in these matters, I at any rate expected that, whatever the merits of the proposals of the majority committee might be, my Honourable friend would take into consideration the general public opinion in regard to this question. Sir, almost every one of the witnesses before that Committee urged that dyarchy is a failure, that the inherent defects of the existing machinery are such that it is impossible to rely upon it as machinery of administration in the provinces, and that the principle of responsibility should also be introduced in the Central Government Amongst those who have urged this view are the *ex*-Ministers in the provinces, and looking at the composition of the Committee, one of its Members, Sir Tej Bahadur Sapru, was connected with the Government of India at one time, and the latest addition to the Government of India, Sir Fazl-i-Husain, has urged the transfer of all subjects in the provinces and also responsibility in the Central Government So much, Sir, for the evidence As regards the way in which these proposals were generally received in the country there is not one single responsible public association or body or responsible organ of the Press which endorsed the proposals of the majority In these circumstances, Sir, it is certainly most surprising that my Honourable friend should have the hardihood to get up in this House and ask us to accept the proposals embodied in the report of the majority

Sir, having said this much, I may also point out that my Honourable friend himself was aware that one of his proposals would be endorsed by Indian public opinion, and the minority have also said the same thing At page 186 they say

“The Majority Committee say in their Report that no recommendations within the terms of reference would satisfy Indian public opinion. We desire to express our complete agreement with this opinion though we do not agree with some of the members of the majority, who hold that there is a section of Indian politicians which will recognise that a constitutional advance has been effected if more subjects are transferred, particularly when the list of recommended transfers referred to above

Council should not be in charge of any of the spending departments, or that the Devolution Rules should provide for Financial Advisers, or that the separation of accounts from audit should be given effect to, these and other recommendations in regard to the provinces will not carry us any further than we are at present. In regard to the Meston Settlement, the recommendation is qualified with those familiar words that the revision should take place "as soon as a favourable opportunity occurs." These words are familiar to us in connection with other pledges which have been made in regard to one of the burning questions of the day.

**The Honourable Sir Basil Blackett** Does the Honourable Member want that revision earlier?

**Diwan Bahadur M Ramachandra Rao** I am merely discussing the views of the majority. My own views are well known, and my Honourable friend knows what I feel on the subject.

**Mr H Tonkinson** What did the minority say on the same point?

**Diwan Bahadur M Ramachandra Rao** Even if the majority and the minority may agree, that does not mean it is a sound recommendation.

**Mr K Ahmed** What is the use of quoting those whom you do not approve?

**Diwan Bahadur M. Ramachandra Rao** My Honourable friend has a licence in this House which no other Member enjoys and I do not think it is necessary for me.

**Mr President** I would ask the Honourable Member to ignore Mr Ahmed's interruptions.

**Diwan Bahadur M Ramachandra Rao** Sir, so much for my Honourable friend Sir Alexander Muddiman. My friend Sir Charles Innes made some observations about the size of India as a reason for the view that responsible government is unsuited for India or very difficult to introduce. I do not know, Sir, whether at any future time India will become smaller than it is now. Does my Honourable friend suggest that on account of the size of India there should be two Central Governments in this country? It is impossible to understand the relevance of the size of India in a consideration of this question. There are Provinces and provincial administrations and if necessary the question of the redistribution of provincial areas may be taken up and decided. Then my Honourable friend referred to the social structure of India and also to what he called the want of fundamental unity in this country. This argument has often been brought forward. On the occasion when Lord Cross's Act was under discussion the same arguments were used. The communal differences, caste differences, religious differences, these and others which exist in this great continent have been trotted out. There was again evidence of this when the Act of 1909 was under discussion. Then on the occasion when the Parliamentary Joint Committee investigated the matter all these differences and communal difficulties also came up for consideration, and in 1924 when the Resolution about Dominion status was under discussion the same views were expressed. Nevertheless every time the Government of India, or rather His Majesty's Government, has taken a definite step forward. The Preamble to the Government of India Act says that the goal of His Majesty's Government is the establishment of responsible government in the country. Therefore, Sir, I really do not understand

why the same argument which has been urged on so many different occasions when a definite step forward has been taken should again be used on the present occasion to prevent a further step in this same direction being taken. So much for these differences and difficulties. Perhaps in this connection I cannot do better than invite the attention of Honourable Members to what Mr Ramsay MacDonald, the late Prime Minister, said in regard to this question during the debate on the budget estimates in the House of Commons on Colonel Wedgewood's motion

“ Having said that, I should like to make our position clear upon another point, which is very germane to that. We are constantly being told that India is not a nation, that there are so many hundred tongues and dialects, so many religions, so many sects, so many castes always coming up again and again. All I am concerned with is this, that I will defy anybody to turn to me a page or a section in the history of India, where the life of India was running at the full, where in peace or in war, turn to me one single section of those religious philosophies that are really the basis of the life of the Hindu, and point out to me anything where there is not underlying all the assumption, the aim of Indian life was unity within the peninsula. It has been the aim of everyone, of every conqueror, to unify that peninsula. It has been the aim of every statesman. The Hindu, who utters his religious prayers at the Ganges, the whole conception of the Indian mind is unity, and the fact of a common habitation in the peninsula has gone far to remove, at any rate amongst the sections that are creating our political problems—I say that amongst those people the difference between Hindu and Muhammadan is steadily being bridged over, and the leaders of both sections are constantly in the same category.”

Sir, this is the view which my Honourable friends opposite should take and they should not urge the same arguments and the same differences which have been referred to on previous occasions.

Sir, I do not wish to take up the few minutes at my disposal with any further observations in regard to either of my Honourable friends opposite. I only wish to refer to one aspect of the scheme which has been embodied in the amendment of my Honourable friend Pandit Motilal Nehru, and that is the aspect to which my Honourable friend Mr Rangaswami Iyengar made some reference yesterday. Our point is that the whole scheme of the Government of India Act, 1919, is unsatisfactory. We say that unless the revenues of India are vested in the Government of India and are administered under a responsible legislature, there cannot be any responsibility in financial administration and no other change except this will meet the requirements of the situation. Sir, when the Act of 1858 was enacted, there were at that time both the Board of Control and the Court of Directors, and the Council of the Government of India was really a reproduction of the Board of Control and the Court of Directors. Even at that time, Sir, many people accustomed to the free institutions of Great Britain had great difficulty in reconciling themselves to the creation of a Council at the India Office. A good many of the Members who took part in the debate on the India Bill in 1858 deprecated the creation of a bureaucracy at the India Office. They said that the mismanagement of colonial affairs which was then present in the minds of the people was due entirely to the bureaucracy at the Colonial Office, and in his famous report on the affairs of British North America Lord Durham complained that owing to repeated changes in the political chiefs at the Colonial Office the real management of the Colonies fell into the hands of the permanent officials and this was felt by the Colonies as a great grievance, and a group of British reformers at that time who were working with Lord Durham held exactly the same views.

**Mr President** It is a very unpleasant thing for the President to have to remind Honourable Members of the time limit, but I hope the Honourable Member will bring his remarks to a close

**Diwan Bahadur M Ramachandra Rao** Well, Sir, I only wish to point out, if you will give me one minute, that the abolition of the India Office was advocated also by the Crewe Committee They said

"We reiterate however our opinion that the present is the most opportune time, both for political and constitutional reasons, for marking the inception of the Reforms by a definite and unmistakable change in the Home Administration of India"

They suggested that the India Council should be purely an advisory body and that the statutory functions of that body should be abolished If I had the time I would have shown that all the clauses of this amendment have been discussed by Indian public opinion during the last 40 years The abolition of the India Office was referred to in the first Indian National Congress It was agreed to in 1916 It was urged before the Joint Parliamentary Committee, and if my Honourable friend, Sir Alexander Muddiman who is generally acquainted with the political literature of this country, would take the trouble he will see that this amendment represents the general consensus of opinion in India We are perfectly certain that the conditions imposed by the Secretary of State in his speech have been fulfilled in regard to the amendment which is now before the House

**Mr Chaman Lal** (West Punjab Non-Muhammadan) Sir, it is with the greatest diffidence that I rise to-day to take part in this debate I am convinced that the atmosphere which surrounds the proceedings of this House on this question is surcharged with unreality There, on the one side, you have the Treasury Benches convinced of their might, of their great power There, on the other side, you have the representatives of the people of India convinced of the righteousness of their cause On that side, Sir, you have nothing but brute force On this side, we have nothing but the Will of the people You happen to be convinced at the present moment that the Will of the people is not strong enough to assert itself, and it is because of that that you here in this House, Lord Birkenhead in the House of Lords and His Excellency the Viceroy in opening this Session,—take up the attitude that there is nothing doing as far as the demand for political freedom is concerned You may be right or you may be wrong, events and the future will justify you or justify us But let me at the outset give you this warning do not depend too much upon the brute force that you command now That force, that power, that strength is a double-edged sword You may use it to put us down now, but in the end it will result in nothing less than the destruction of the present system of government You are challenging constitutional struggle in all earnestness—no man in trying, you are doing your worst, to destroy that constitutional struggle No man, Sir—and I address these words in all earnestness—no man in India knows what the end of this may be We are faced to-day, not with the issue which the Honourable the Commerce Member presented to us but with the issue which the Honourable the Home Member refused to face The issue is very simple Last year, when we the Swarajists came into the Assembly, we came with the determination either to mend the Assembly or to end it, and as a beginning we presented you with our demand—a very modest and moderate demand You were at the moment under the

12 Noon

tutelage, the Government of India were under the tutelage of a party which was supposed to represent the cause of righteousness as far as India was concerned—the Labour Party, and under the pressure of the Labour Party you were compelled, let me remind you, to set going your committee known as the Muddiman Committee. But with it you gave an undertaking to this House that if in the examination of the constitution of India defects were discovered which would make it impossible for the constitution to work properly, then the matter would be left open. What I want to draw the attention of the House to is this, that the overwhelming evidence which you took in that committee proves that the working of this constitution has become impossible. You, Sir, have not faced that issue. That issue is perfectly clear. The people of India say to you “We cannot work this constitution, there is no popular will behind it, there is no popular sanction behind it, the constitution itself has been proved by evidence to be unworkable.” Yet you will persist because you know that you have brute force on your side in telling us that we must continue to work this constitution, that we must continue to co-operate with you in working this reforms scheme. What is it that you mean by co-operation? Co-operation with what? With a scheme which every witness, every Minister who gave evidence, barring one, and gave willing co-operation to you for three years, has said to be unworkable, a scheme which it is impossible to regard as one which would lead to the success of the reforms? And yet, Lord Birkenhead, after a very painful period of intellectual parturition, comes out with the statement that he expects the people of India to co-operate before he could do anything for the people. What is it that you are demanding of us? A one-sided bargain you say “Give up your fight, give up your non-co-operation outside the Councils and inside come to us like beggars, eat humble pie, and then, and then only, in the might of the British Empire, in the wisdom of the British Empire, we may consider at some future date your claims.” That, Sir, is a one-sided bargain that you are asking of us to make. There is no man from the leader of my Party, from the leader of the Independents in this House downwards, no politically-minded intelligent man in the country, who is prepared to accept such an ignominious and humiliating position for himself or for his country. Lord Birkenhead said—and let me remind those who may still have doubts as to the meaning that His Lordship wished to convey to his audience—he said

“Conformably with the principles laid down in the Preamble one constitution or another might at one time or another be attempted. Experience, educating us, or informing our critics in India might induce us to make an amendment here or an advance or a variation there. But the whole message as we understand it of our situation in India with all it involves, in the storied past, in the critical present and in the incalculable future is to be read in that Preamble.”

He says that India must be tied to the apron strings of the British Empire until it pleases the rulers of the British Empire to take notice of us.

His Excellency Lord Reading supplemented that and said

“My Government and I”—and this is absolutely definite—“after most carefully weighing their views have reached the conclusion that the moment for an inquiry has not yet arrived.”

That, Sir, is the situation to-day, the constitutional position. As far as the political situation is concerned, everybody knows that a constant and ceaseless struggle has been waged against British Imperialism in India. It

has been waged by every political party in India, in different ways no doubt, by the non-co-operators, by the Swarajists and by the Moderates. Is there any man in his senses in India to-day who believes that that fight is going to come to an end? We may not have the sanction behind us at the present moment. But there is no man who believes that the time will not come, and very shortly come, when we shall have the sanction behind us. We do not intend, Sir, at least the Swarajists do not intend to commit political *hari kari*, we are not going to efface ourselves by merely listening to these sweet words which mean nothing. Your policy is a policy of do-nothing, your policy is a policy of repression, your policy is a policy of tyranny undiluted, because you know that you have the power of your sword. Our policy is a policy of suffering, our policy is one of organisation, we shall go to our people, we shall educate our people, we shall organise our people and will make it impossible for this Government to sit upon the high pedestal upon which it is sitting at the present moment. Just as Humpty Dumpty, as the old maxim says, sat upon a wall, so the British Government are sitting upon the wall. But remember the time will come when Humpty Dumpty must have a fall, and neither the King's men nor any power on God's earth will be able to set you up again.

I heard the Honourable the Commerce Member say "We are the trustees of the people of India." Trustees of India—are you the Lord's appointed and the Lord's appointed? Who appointed you trustees of India? Robbers and thieves, that is what the British people in India have been. They have not been trustees of India. You have broken every pledge that you gave us, broken it to the ear of the peoples of the world, you have treated with contempt.

**Mr President** Order, order. The Chair must discourage this practice of constantly and repeatedly addressing the Treasury Benches instead of the Chair.

**Mr Chaman Lall** Sir, I was addressing you and through you the Treasury Bench. I can find no fitter medium through which I could convey my impressions and my thoughts to the Treasury Bench than through you. Here are statements that show how the British Government in India have treated their trusteeship. Here is the view of His Grace the Duke of Argyll.

"We have not fulfilled our duty or the promises and engagements which we have made with the people of India."

That is a very high authority who says that you have not fulfilled your promises, that you have been promise-breakers to the people of India. Here is another authority which says.

"The English rulers stand sentinel at the front door of India challenging the whole world that they do and shall protect India against all comers, and themselves carry away by a backdoor the very treasure they stand sentinel to protect."

Trustees! Trustees of a treasure which they are protecting for their own good. Sir let me remind you of what Major Baring said. He said that "the extreme poverty of the mass of the people" of India was a fact. Sir George Campbell, reiterating that, said that "the bulk of the people are paupers." Mr Robertson, who was Agricultural Reporter to the Government of Madras, said, speaking of the agricultural labourer in Madras, that

"His condition is a disgrace to any country calling itself civilised. In the best of seasons, the gross income of himself and his family does not exceed 3d per



day throughout the year and in a bad season their circumstances are most deplorable I have seen something of Ireland, in which the condition of affairs bears some resemblance to those of this country but the condition of the agricultural population of Ireland is vastly superior to the condition of the similar classes in this country "

Here is Lord Lawrence, once Viceroy of India, saying " that the mass of the people were so miserably poor that they had barely the means of subsistence " Here is Sir William Hunter telling us this He is the best defender of British Administration in India He says " that 40,000,000 of the people of British India go through life on insufficient food "

That is your trusteeship You are welcome to your trusteeship

Mr President Order, order

Mr. Chaman Lal I did not catch the interruption

Mr President The Honourable Member must address his remarks to the Chair and not to the Treasury Benches so repeatedly

Mr Chaman Lal " I want a definite reply from the Honourable the Home Member when he gets up to speak I want him to enlighten the House as to how he has fulfilled his trusteeship to the people of India Statements have been made in the House of Commons that in India the trusteeship of the British people in India is so construed as to mean that no support, no sustenance is to be given to the poor people of this country, that the masses are to be ignored and that the masses are never to be taken into consideration Here in this House you have 20 representatives of the vested interests in India Have you one representative of the masses and yet you call yourselves the trustees of the Indian people Never have I known such a hypocrisy of trusteeship In the House of Commons, it was stated that out of a thousand children born in 1922, 667 died within a year of their birth What was the trustee doing then ? Sleeping a sound sleep ?

" When I consider life (Reforms) is all but a cheat,  
Yet fooled with hope and men favour the deceit,  
Trust on and to-morrow will repay,  
But to-morrow is false as the previous day "

This is the condition of British Government in India Politically, constitutionally and socially this administration is a bankrupt administration As I have said on another occasion it has no sanction behind it but the sanction of brute force No doubt you hold the sword in your hand The time will come when the people of India may be driven not to actual violence but to something worse than actual violence and you may repent that day when that situation arises I do not want that situation to arise Let me be clear about it My leader does not want that situation to arise He has held before you the hand of friendship If you turn that gesture down, it will certainly be a day which the British Government and the Government of India and the whole British Empire will repent I do not approve of violence We are pledged to non-violence It is the British Government in India that hold the brief for violence, which always dangle their sword before us We ask you to remember that in presenting this case, Pandit Motilal Nehru has done so in a weak, mild and humble fashion It is the first occasion when the Swaraj Party as a party has come out and accepted the programme not only of Independents in this House but actually of the National Liberal Federation It is to show the British Government in India that we as a party stand united

with all parties in India and the difference between us and the Moderates and other parties in India is this, that when the time comes for the sanction to be enforced we shall be there to enforce it. The National Liberal Federation and the Moderates at the present moment say exactly what we are saying.

**Mr. President** The Honourable Member has already exceeded his time limit.

**Mr. Chaman Lal** I have no intention to continue, but I will just say one parting word and that last parting word is this—that in my opinion, in the opinion of my Party and in the opinion of the leader of my Party, we and the British Government are at the parting of the ways now. The struggle is bound to continue if this hand of friendship which is held out to the British Government is not accepted. In one hand the British Government hold the sceptre which is the symbol of tyranny and on the other hand they hold the sceptre which is the symbol of friendship. We ask you to hold out to us the hand of friendship, because we are offering you our friendship. You want our co-operation. We are willing to co-operate only on the condition that you accept the principles underlying that co-operation. We cannot place our life and our liberty in the hands of the British Government, of Lord Birkenhead or Lord Reading or any system of Government that may be in existence here or in England. We want a definite announcement on the part of the authorities that they are prepared to accept the principles that are laid down in the amendment of Pandit Motilal Nehru. If that is conceded, if that is accepted I see no difficulty whatsoever in a reconciliation being arrived at, but if it is not, take it from me that we shall go to the country and raise up a storm against you—a storm that you shall never be able to meet with any sort of gesture except the gesture of defeat writ large upon your face.

**Mr. President** Before Sir Basil Blackett speaks I may explain that the Chair does not object to a Member occasionally addressing the Treasury Benches. That may well be construed as addressing the Treasury Benches through the Chair. But when a Member addresses the Treasury Benches repeatedly and all the time he is speaking without any regard to the existence of the Chair, the Chair must intervene and take exception to

look back to the debates of February and March 1924 and contrast those debates with the debates of to day and with what has happened in the meanwhile will realise that there has been a very great change

Even my Honourable friend who has just spoken, and who has such a magnificent gift of eloquence and so little to say—(Laughter) has learnt quite considerable lessons since February 1924, and Mr Abhyankar also has come on quite considerably, they have both retained their old style, but there is very much more substance in what they have to tell us. They have learnt a good deal by co-operation, for I think that the real lesson of the last 18 months is that there has been a very great deal of co-operation (Hear, hear) There was co-operation in passing the Steel Protection Act, there was co-operation in effecting the separation of the railway from the general finances, there was co-operation in connection with the last Budget, and I believe that the historians of the second Assembly will eventually say that it had as good a record as the first in the matter of co-operation. So I refuse to be pessimistic.

**Mr A Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) It depends on what you are going to do.

**The Honourable Sir Basil Blackett** Several speakers have referred to that passage in the amendment which deals with the transfer of control of the purse from the Secretary of State in Council and the British Parliament to the Governor General in Council and the Indian Parliament. Now Mr Rangaswami Iyengar spoke as if there was no kind of control of the purse in India, as if the Secretary of State in Council were the absolute, autocratic master in this respect. Mr Rangaswami Iyengar has been sitting for the last month on the Public Accounts Committee, and I take this opportunity of saying that he has been an extraordinarily valuable colleague. He has I think in connection with the Public Accounts Committee obtained very many proofs that the reforms *have* transferred a very potent weapon to this Assembly, for control over Government finance, even in the non-voted portions.

**Mr A Rangaswami Iyengar** May I say one word of explanation, Sir. What I said was not that this Assembly had not any statutory powers under the present Government of India Act, what I said was that despite those powers which have been conferred on the Assemblies in India, the Secretary of State in Council to-day possesses the power of overriding the whole Budget of the Government of India under some other rules or provisions.

**The Honourable Sir Basil Blackett** My answer would be that he cannot quote a single case in which that has been done, and that any arbitrary attempt to exercise that power would immediately bring its own retribution.

**Mr A Rangaswami Iyengar** But, Sir, the law is there and there were instances in the past.

**Mr President** Order, order. Sir Basil Blackett.

**The Honourable Sir Basil Blackett** Sir I have only a quarter of an hour, and I will do my best to keep within it but I cannot if I am continually interrupted. Therefore I say that whatever the technical explanation of the position may be, there has been a tremendous advance and a tremendous advance is going on all the time. I have not got the figures, but I am sure that figures comparing the numbers of Indians in

high responsible positions in the Government of India five years ago and to-day would show very remarkable results

Let me now come to Sir Purshotamdas Thakurdas. He was anxious to prove that it was necessary in the interests of the commerce of India that there should be a Government responsible to the people. He quoted several instances. Now I do not want to go into those particular instances just now. We shall have a discussion on the cotton excise duty before very long apparently, and the other subjects are not strictly germane, if one gets deep into them, to the discussion now going on. But I should like to ask my Honourable friend, Mr. Devaki Prasad Sinha, or my friend, Sir Sivaswamy Aiyer, whether they are quite sure that a Government responsible to this Assembly would have done what Sir Purshotamdas Thakurdas apparently wishes and guided our currency and exchange policy entirely according to the views of the particular section of Bombay. I have a much better opinion of the Indian capacity for self-government than that. I am quite sure that if there had been a ministry responsible to a Parliament that ministry would have endeavoured to conduct its currency and exchange policy very much on the lines that this Government have conducted it for the interests of the people as a whole. If then Sir Purshotamdas Thakurdas is really right in the complaint that he makes against this Government that it has not done exactly what a particular section of Bombay has wanted in various matters, that surely is a strong argument, a much stronger argument in Sir Purshotamdas Thakurdas's mouth than it ought to be, for a ministry representing something more than this Assembly at present represents for if Sir Purshotamdas Thakurdas is right that a ministry appointed by this Assembly would have neglected the interests of India as a whole to the extent that he desired then Sir Charles Innes must be right in saying that a Government such as now exists is required which represents the people of India somewhat more widely. I do not agree with that argument in this case because I do not believe that Sir Purshotamdas Thakurdas was right in saying that the present Government have neglected the interests of India in the matter of commerce, or that a Government responsible to this Assembly would have been so unwise as to adopt entirely the views represented by the Bombay Merchants' Chamber and Bureau. I have a great affection for that Chamber—(Hear, hear)—for I know whenever I visit Bombay that I shall have a lively discussion and shall meet some live friends there. But I do claim that the Government of India have the right and have successfully exercised the right of representing wider interests than those which are sometimes pressed with great vigour by that particular body.

The amendment before us to-day is rather a difficult one to understand. I am waiting with great interest to hear how Mr. Jinnah will explain how it is in accordance with the views of the minority report on the Reforms Inquiry Committee. Of course it has one great virtue: it is open to a Swarajist interpretation, to an Independent interpretation, and to a Moderate interpretation, and as far as I can make out the three interpretations are not the same. (*An Honourable Member* "They are incompatible")

**Mr. M. A. Jinnah** (Bombay City, Muhammadan Urban). It is a crowning achievement.

**The Honourable Sir Basil Blackett** They are entirely incompatible and will thereby save the conscience of a large number of people holding entirely different views when they vote for the same Resolution and mean entirely different things. (*Several Honourable Members* "No, no") But let me try and put this amendment in the form in which I imagine it really is meant to go. I do not pretend that it says so. (*An Honourable Member* "Would you like it to say so?") But it has I think a least common denominator. It begins by saying,—“We do not object to most of the detailed recommendations in the majority report, but we do not think that they are of great importance. We do object to the principle of the majority report, that is, we do not agree that it is worth while making a further effort to work the existing constitution and tinker with it.” (*An Honourable Member* "Quite right") Our view is that the constitution is faulty—and here I have to interpret a little—and we ought immediately to appoint a statutory commission or a Royal Commission or some other suitable agency for I think the words “other suitable agency” in the amendment are meant to hint at a Royal Commission to reconsider the constitution. (*Mr. M. A. Jinnah* “A bad constitution”) There is no need to insert additional epithets. Then it goes on to say “The idea of the new constitution we have in mind is something on the lines laid down in the clauses of the amendment and we should like the statutory commission, when appointed, to consider that line as being the most hopeful line of advance. We should even be willing to insert a provision for a veto here and there and other things suitable in a transitional stage.” That is how I interpret the amendment, as Mr. Jinnah perhaps would put it. I do say that that is not the amendment as it is down on the paper. If that had been the form of the amendment and if this Assembly had come forward and said “Of course this cannot be done all at once, and for the rest of the life of this Assembly and for the beginning of the next, we will co-operate to the best of our ability”, then instead of being, as I see it, in form an entire rejection of the invitation from the British Government and from Lord Birkenhead and from His Excellency the Viceroy to co-operate, it would have been a material contribution to discussion.

**Mr. A. Rangaswami Iyengar** Will you frame an amendment and propose it?

**The Honourable Sir Basil Blackett** I am not good enough at drafting amendments. That seems to be the particular gift of the Whip of the Swarajist Party and others. I do not wish to exceed my time limit or to go further into the matter than that, it does seem to me that there is really a great opportunity before us at the present time. It is not so very long before in any circumstance the statutory commission must be appointed. There are an immense number of details in the working out of a new constitution which require study before that statutory commission comes. This amendment—this is another striking point about it as I understand it—states quite definitely that we are satisfied that constitution on western lines is what India wants. (*An Honourable Member* “No”) That is what the amendment says. I do not know of course what anybody who votes for it may want. The amendment says that the future constitution of India must be on western models. Now, it has often been said that the present constitution is an experiment. It is an experiment to my mind not nearly so much on the question of the capacity of Indians for self-government, as in the

possibility of adapting to the conditions of a very great Continent in the East the ideas and methods of western responsible democratic government

**Mr A Rangaswami Iyengar** This is a hybrid affair

**The Honourable Sir Basil Blackett** It may indeed be said that the amendment is hybrid but, as I understand it, the united wisdom of the three parties in the House comes forward and says we want a constitution on the western model and this is our general idea of it

There are details in this constitution that I should like to deal with. It suggests that provincial autonomy should be immediately granted. I think provincial autonomy is a nice phrase that hides two quite different thoughts. There is the question of making the Provincial Governments absolutely responsible to the provincial legislatures in the provincial sphere. There is the quite separate question of what powers should be granted to the Provincial Governments. Provincial autonomy is a subject which has taxed the wisdom of the framers of all constitutions, federal constitutions, in the world. It has been well said that the constitution of the United States of America all but broke down over the question of State rights when it was being framed, one of the most disastrous civil wars was fought on the question of State rights and the question is entirely unsolved to day. That is. (*In Honourable Member "Slavery"* *Another Honourable Member "And yet they go on"*) The question of slavery was the immediate occasion, but it was quite incidental according to the views of American historians and the real cause was the question of State rights. The question of provincial autonomy is one of the subjects on which we might seriously think in the interval before it is possible to take the next step. There are many other subjects of the same sort, one of them is Mr Rangaswami Iyengar's own subject, the question of the financial relations of provinces to the Central Government and of the Central Government to Parliament. However, I see, Mr President, that I shall shortly be putting myself under your ban if I continue. I will therefore content myself with making one more appeal to the House. Let them think again about this offer of co operation. If they really mean an offer to co operate by this rather catholic (though catholic is perhaps dangerous adjective to use to day) amendment, let them think whether they cannot frame it or at any rate explain it in a form that will not be what it is at present, a direct rejection of the offer of the Secretary of State to consider any constitution that may have had behind it wide support of Indian opinion and a direct rejection of the Preamble of the Government of India Act, which says that the manner of any advance must be determined by the British Parliament

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not referred to it in his speech—and I am sure that in those conversations which he had with Lord Reading in England he must have been fully apprised of those factors and situation. Not only that, but they are mentioned in the Muddiman Committee's Report, which, I believe, His Lordship Lord Birkenhead must have read. The reasons why the non-cooperation movement started, and found its existence and was carried on were the extraordinary events which moved the blood of every man, woman and child in this country. (Hear, hear) Sir, the Punjab question no longer exists. Jallianwala Bagh we cannot forgive, but we are willing to forget. The Treaty of Sevres is gone, the Khilafat question does not exist in that acute form. But, Sir, the question of Swaraj remains. Now let us recall the recent history of this question in 1921, what did this Assembly, composed of men who came here to co-operate with the Government at the risk of obloquy and odium of public opinion, do in 1921?

In 1921 a Resolution was moved and the Government practically accepted that Resolution. That Resolution ran as follows

“ That this Assembly recommends to the Governor General in Council that he should convey to the Secretary of State for India the view of this Assembly that the progress made by India on the path of responsible government warrants re-examination and revision of the constitution at an earlier date than 1929 ”

Well, Sir, to that we got a reply from His Majesty's Government and there were three objections raised. The first reason was that the progress was possible under the existing constitution. This House will mark the words that the progress was possible under the existing constitution. The second reason was that the merits and capabilities of the electorate had not been tested by time and experience. And the third reason was that the new constitutional machinery had still to be tested in its working as a whole. To that the answer was given by this Assembly by a large vote on a Resolution in February 1924, which was accepted. That Resolution, as amended by the amendment of my friend Pandit Motilal Nehru, was accepted by every section, almost without exception, on this side of the House. The House will remember that at that time I for one made it quite clear that the round table conference was merely an agency. What we wanted was that steps should be taken to establish responsible Government in India. It was not a question of a round table conference or a square table conference, about which we make bones. It was not a question that we were going to get responsible government now here at this moment. The question raised by the House was that the Government of India Act was unworkable and that the time had come when this Act should be revised and reviewed. Sir, to that question the answer was—I am not going into details—that the Reforms Inquiry Committee was constituted under theegis of the Labour Government. The terms of reference of that Reforms Inquiry Committee were unfortunate, they are well known to all the Members of this House. Sir, it was asserted that progress of a substantial character was possible within the policy and the structure of this Act. We joined issue. Then we were told “ Very well, that is your position. At any rate, we want to make an inquiry. And, if our inquiry shows that substantial progress was not possible within the structure and the scope of this Act, then the question of revising or reviewing the constitution is a separate issue which will be considered hereafter ” Remember that was a clear and a definite term of reference to the Muddiman Committee, namely, that, if our inquiry showed it, we were to say that sub-

stantial progress was not possible within the Act and the constitution should be revised. Well, Sir, here I refer to the speech of Colonel Crawford, who went to the length of saying in this House and on the floor of this House with all the responsibility that he carries that the impartiality of the minority was damaged at the very outset of the inquiry. Sir, I am sure if the gallant Member had tried to understand the constitutional aspect and if he had read those observations which he quoted in order to establish the proposition that the impartiality of the minority was damaged, he would have been the last person to have made such a reckless allegation. What are the observations upon which he relied? The observations on which he relied are to be found on page 132 of the Muddiman Report. I shall quote those observations and I appeal to Colonel Crawford again to read those observations carefully, and I also appeal to him that he should withdraw the suggestion which he made against the minority (Hear, hear). Sir, what did we say? We said

“ We beg to point out that, having regard to terms of reference, we felt at the very commencement of our work that although it was open to us to traverse a large ground so far as the inquiry was concerned, yet in the matter of remedial proposals our scope was very much limited by the language used in clause (2) of the terms of reference ”

Now, is that not a fact? Is that not true? Does Colonel Crawford now realise what we meant? Although the terms of reference gave us the power to inquire into the defects and the difficulties inherent in the Government of India Act from A to Z, yet we were precluded from examining those defects and recommending the remedies? That is what we meant.

**Colonel J D Crawford** (Bengal European) On a point of explanation, Sir. In view of what the Honourable Mr Jinnah has said, I desire to withdraw—(Applause)—any charges of partiality that I may have made against the distinguished members of the minority report. My intention was really to emphasise the fact that in my opinion the members of the minority had given undue attention to the political aspects overshadowing altogether the administrative aspects of the problem, and I felt that it was the administrative aspect and not the political aspect with which the man in the street and those engaged in trade and commerce were mainly concerned.

**Mr M A Jinnah** I am not going to quarrel with the point of view of Colonel Crawford at the moment. I grant that there are differences of opinion. But that is not what I am going to deal with at this moment.

Sir, now I shall proceed further. Now, what is the question before this House? The question upon which I again want the House to rivet its attention is this. Is this constitution to be revised, to be reviewed at an early date, or are we going to wait until 1929? That is the real issue and that is the question which we have got to consider. Now, Sir, we maintain and there can be no doubt—even Lord Birkenhead and the Honourable the Home Member cannot gain say it—that the inherent defects of dyarchy make any real progress towards responsible government impossible within the structure and the policy of the Act. What does Lord Birkenhead say on this point.

“ What then is it possible for me to say at this stage of the future? The wisdom of Parliament declared that after a period of ten years the Montagu Chelmsford constitution should be revised by a Royal Commission. It will undoubtedly require such revision, and it cannot be too plainly stated that everything will necessarily



be thrown into the melting pot Dyarchy itself is very obviously not a sacred principle It must be decided by results The conception was always doctrinaire and artificial A great measure of success may justify it where a smaller would not."

And then he quotes at the end of his speech a passage which is a well known passage and which has been quoted over and over again as a true and accepted estimate of dyarchy

And he says that he had no quarrel with that description and estimate of dyarchy

I will repeat that passage for I feel it would bear repetition

"The Governor in Council in words quoted by the noble lord who moved has, it is true, placed it on record that in his opinion the dyarchy is a cumbrous, complex, confused system having no logical basis rooted in compromise and defensible only as a transitional expedient, my lords, I have said enough to make it plain that whatever other controversies may separate the noble lord and myself this will neither be one of the most better nor the most protracted"

Now, Sir, if so far I am right and we are right that dyarchy cannot possibly, having regard to its inherent defects, enable us to make any progress within the structure and policy of the Act—and we go further and say that if you make any amendments within the scope and structure of the Act, it does not meet the needs of the country, and certainly, I say it most emphatically, it does not satisfy a single section of the political minded people of this country—then what is the answer? The answer is, trot out all the arguments which in my judgment amount to nothing else but scandalising the Indian people The first argument is that we are not a nation, therefore we must wait till 1929 Then I suppose suddenly we shall become a nation Sir, the argument was advanced in 1919 when Mr Montagu, the late Secretary of State for India, for whom I had the profoundest respect, said on the floor of the House of Commons

"That pronouncement was made in order to achieve what I believe is the only logical, the only possible, the only acceptable meaning of Empire and Democracy, namely, an opportunity to all nations flying the Imperial flag to control their own destinies (*An Honourable Member* "Nations") I will come to nations in a moment. I will beg no question. The Honourable Member raises the question of nations Whether it be a nation or not, we have promised to India the progressive realisation of responsible government. We have promised to India and given to India a representation like that of the Dominions on our Imperial Conference India is to be an original member of the League of Nations Therefore, I say, whatever difficulties there may be in your path, your Imperial task"—

for which, Sir, the Honourable Sir Charles Innes is not ready

—"to overcome those difficulties and to help India on the path of nationality, however much you may recognise"—

And I propose to ask the House to consider them

—"the difficulties which lie in the path"

Sir, India is not a nation, we are told We were a people when the Great War was going on and an appeal was made to India for blood and money We were a people when we were asked to be a signatory to the Peace Treaty in France We are a nation when we become a member of the League of Nations to which we make a substantial contribution We are a nation or a people for the purpose of sending our representative to the Imperial Conference We are your partners, but we are not a nation. We are not a people nor a nation when we ask you for a substantial advance towards the establishment of responsible government and parliamentary institutions in our own country

Then, Sir, we are told—and I say again it has reached the point of scandal—what are our electorates, look at them. Then we are told, “Look at your education”, “look at your position with regard to the defence of your country”. Lord Birkenhead has done the greatest injustice in that statement of his in the House of Lords. We are told that we cannot give ten boys for the vacancies allocated to India for the King's Commission. I repudiate that as an entire falsehood. I can give you ten thousand if you want. You have closed that door to the Army to the people of India. You only opened that door under the stress of war in 1918 and allowed an Indian to be in a position to take the King's Commission, and now you turn round and say, “But nobody in India suggests that we can dispense with the British troops”. You have placed a garrison, you have kept the sons of the soil out for a hundred years or more, and you now tell us we are not able to take up the defence of the country. Sir, it is well known, the Government know it, and if they don't know it, then I say they are not fit to govern. Lord Birkenhead may have indulged in pomposity but he has shown—I speak with the greatest respect, for after all he is Secretary of State for India—utter ignorance in the one-sided picture he has painted for the House of Lords, which is a slander of India's fair name.

Now, Sir, the next charge is education and here I come to my Honourable friend, Mr Cocke. He has taken a very businesslike view. He did not pretend that he was capable of understanding constitutions and he pointed out what strikes the ordinary man. I am not going to exaggerate on the floor of this House, although I hold very strong views that there are difficulties, undoubtedly there are difficulties. A man who says there are no difficulties is not speaking the truth, but do not in the name of heaven scandalise us. We say that there are difficulties, but meet them and let us solve them as comrades together. That is what we want.

I do not want really to take up more time, but I want to deal with the next point, what is the answer of Lord Birkenhead, His Excellency the Viceroy and the Honourable the Home Member. They all say there is one condition. The minority report means that we want a Royal Commission, but says the Honourable the Home Member, there is a clear condition before the Royal Commission can be announced. Before Government do that there is one clear condition. He did not add the word “precise” which Lord Birkenhead did, but I will add both “precise and clear”, and the condition is that responsible leaders must co-operate. I again here ask the Government, I ask Lord Birkenhead, I ask Lord Reading, what is your answer to those men who have co-operated with you? None. Your answer to me as one who has not non-co-operated with you is this.

Will you bring a section of the politically minded people, who happen  
 1 P M to be the largest political party, will you bring  
 them down on their knees? Will you bring  
 Pandit Motilal Nehru to bow down to the throne at Viceregal Lodge, and say “Sir, I am humble, I crawl before you, and will you now be graciously pleased to give me a Royal Commission? Is that what you want? What has Pandit Motilal Nehru been doing in this Assembly? Has he not been co-operating with you? What more do you want? I want to know what more you want, and may I know what evidence, what proof, documentary or oral, do you want me to produce or adduce that the responsible leaders are willing to co-operate with you? Have you no eyes, have you no ears,

have you no brains ? (*An Honourable Member* "No hear") Sir, so much for co-operation

Now I come to the next point I think if Sir Basil Blackett had confined himself to the financial aspect of this question we would have done much better, instead of interpreting a constitutional document and trying to give some meaning to it Well, Sir, I will not say anything more I say that document is clear it speaks for itself But if Lord Birkenhead and His Excellency the Viceroy, and even the Honourable the Home Member, had stopped at this, that as soon as the responsible leaders show evidence of co-operation and show that they are willing to work this constitution for what it is worth, we shall certainly appoint a committee at an early date, if they had stopped at that, I could understand it But what do we find ? The pomposity and pedantry of Lord Birkenhead does not stop there and it is repeated here He says further

"It has always seemed to me that a very simple answer may be made to such a contention. We do not claim in Great Britain that we alone in the world are able to frame constitutions, though we are not altogether discontented with our humble constructive efforts which we have made in this field of human ingenuity"

I certainly admit, Sir, that dvarchy was a human ingenuity Then he goes on

"But if our critics in India are of opinion that their greater knowledge of Indian conditions qualifies them to succeed where they tell us that we have failed, let them produce a constitution which carries behind it a fair measure of general agreement among the people of India."

Here we are peoples of India

"Such a contribution to our problems"

They are their problems, not ours

"to our problems would nowhere be resented It would, on the contrary, be most carefully examined by the Government of India, by myself, and I am sure by a Commission, whenever that body may be assembled"

Lord Birkenhead therefore says well give us an idea of your constitution Now I turn again to my friend the Honourable the Finance Member, and I say that if he will be kind enough to read that amendment, he will see that that amendment lays down the definite lines on which the constitution should be amended Am I wrong in saying on the floor of this House as an answer to Lord Birkenhead, that these are the fundamental changes that I want to be embodied in this constitution ? Am I wrong in that ? You may say that my proposals are wrong, you may say my proposals are defective you may point out to me where I am wrong, and certainly I for one make it clear that I am open to conviction

The Honourable Sir Charles Innes (Commerce Member) Will the Honourable Member explain whether he accepts what Pandit Motilal Nehru said yesterday, that not a comma of this amendment must be altered ?

Mr M A Jinnah I am used to the mischievous attitude of the Honourable the Commerce Member, and he will not draw me into his parlour I have known the spider too long and the fly is not going to be caught Now I shall proceed, untrammelled by any mischief I say this amendment is an answer to Lord Birkenhead

Well now Sir let me come back to my Honourable friend Sir Charles Innes What did he say ? He said the Preamble can go to the winds, that does not matter

**The Honourable Sir Charles Innes** What I said was that Preambles could be altered

**Mr M A Jinnah** Yes, therefore they can go to the winds Well, surely they are not sacred, they can be altered as we like

**The Honourable Sir Charles Innes** Not as you like

**Mr M A Jinnah** You and I Anyhow, Sir, I have been in the legal profession for a long time and I always thought that no Preamble was sacred, no Statute was sacred, no provision of a Statute was sacred As a matter of fact let me tell Sir Charles Innes if he does not know it, that the Preamble has always to recite the evil it is intended to cure, the Preamble merely states the object with which the legislation is undertaken and nothing else

**The Honourable Sir Charles Innes** Thank you

**Mr M A Jinnah** But really to me, Sir, this is a futile controversy, an utterly futile controversy The question really is this Take your section 84-A, to which the Honourable the Home Member referred Well, what will the Royal Commission, when it is appointed, do? It will examine the question, and supposing the Royal Commission came to the conclusion, on an examination of the question, that all that we are saying in our amendment can be done, having regard to the growth of public opinion, having regard to the efficiency of the electorates, having regard to the educational condition of this country And let me tell you that more people are educated in this country to-day, if you rely on percentages, than there were in England when you had a Parliament there first—and having regard to all the circumstances of the case, supposing they thought that the people of India were competent and fit and that the proposals embodied in this amendment should be carried out, would you object to it?

**The Honourable Sir Charles Innes** Not at all, but the decision would rest with His Majesty's Government That is what the Honourable Pandit will not admit

**Mr M A Jinnah** Now I come to the decision Let me tell you, if I may address the Honourable the Commerce Member, let me tell you something in your history I dare say hard-worked officials like Sir Charles Innes sometimes forget history Now let us get back to history He talked about the manner, the measure and the time, and said His Majesty's Government is going to be the final arbiter of that That was his contention Now let me ask the Government and particularly the Honourable the Commerce Member who was the arbiter in the harbour of Boston? Not His Majesty's Government You have that instance in history

**The Honourable Sir Alexander Muddiman** That is hardly an instance from the history of peaceful constitutional reform!

**Mr M A Jinnah** They also wanted constitutional reforms there My Honourable friend the Home Member will allow me to proceed a little Who was the arbiter when unasked you gave self-government to South Africa?

**The Honourable Sir Charles Innes** His Majesty's Government

**Mr M A Jinnah** : Who was the arbiter when you gave self-government to Canada?

**The Honourable Sir Charles Innes** His Majesty's Government

**Mr M A Jinnah** And what about the revolution which preceded His Majesty's Government's decision ?

**The Honourable Sir Charles Innes** The revolution was before that

**Mr. M A Jinnah** And so His Majesty's Government made up their minds to give self-government Do you want that here ?

**The Honourable Sir Charles Innes** Do you ?

**Mr M A Jinnah** If you want it, you shall have it Who was the arbiter in Ireland ? His Majesty's Government ? (*An Honourable Member* "De Valera !") The gentlemen who carry on the Government of India with all their sense of responsibility utterly lack imagination

**The Honourable Sir Charles Innes** They have too much

**Mr M A Jinnah** They may be earnest administrators but what can you expect from that ? My Honourable friend said "I have spent 27 years in hard work", I grant it, conscientious work, I grant it, good work according to his lights, I grant it But, Sir, he has been brought up in that atmosphere where it is impossible for him to get out of it Those very 27 years that he has spent disqualify him from examining the constitutional question What does he say ? First he talked about the British claim Claim to what ? Trusteeship Sir Charles, it is an old exploded theory and I assure you, you stand on no moral ground if you talk of your trusteeship Sir Charles says "we are not only the trustees of the intelligentsia or any one section of the people but of the entire people of India" Well, Sir, the less we talk about it the better It is no use to anybody Sir Charles sees nothing but cliffs and abysses or precipices, he is so frightened that he will tumble down

**The Honourable Sir Charles Innes** That you will tumble down

**Mr M A Jinnah** Then he says to us "We have not known chaos and anarchy for a century we have not known"—I think he said "the horror of chaos and anarchy for a century" I grant it, that is a good argument as far as it goes, but what have we seen ? (*An Honourable Member* "The horrors of plague and poverty !") We have not seen the horrors of chaos and anarchy, but what have we seen, I ask again ? Sir, the horror of being a disarmed people, we have seen the horror of being kept out of that ring of monopoly in the administration and the Government of our own country We have watched, and we have experienced the horror of helplessness in the defence of our own country for a hundred years We have seen the horror of keeping a large body of people in darkness, denying them even elementary education No country in the world that claims to be a civilised country would tolerate that After a hundred years' rule, can you compare your education policy with any civilised country ? We have seen those horrors and we say that these horrors are much worse than anarchy and chaos We want to free ourselves from these horrors, and there is one way and one way alone for India to free herself from these horrors, and that is to replace that irresponsible bureaucracy by a Cabinet responsible to the Legislature of the representatives of the people And we

want you, we want you honestly as men to come forward and help us I know the difficulties. We know the difficulties there are

Now, Sir, I have done. I say in conclusion that you have got two alternatives placed before you. There is a minority report which I say has made out a case to the hilt for a revision of the constitution and they recommend certain reforms and examination by a Royal Commission or some other body. Here again I may say that Lord Birkenhead has run away from the point in his speech and has evaded the real issue when he says

"The obligations of the Government must be admitted to the experienced men who contributed so much labour and produced so competent a report."

For this reference, standing on the floor of this House, may I express my gratitude to His Lordship. Then he proceeds

"We do not anticipate, for reasons which I have already made plain, that we shall be able, as the noble Lord desires, to accept the report of the minority at this stage. The problem of provincial autonomy has not indeed been adequately thought out by those who are to day pressing it so strongly upon our attention. Provincial autonomy contemplates a complete transfer to all the provinces of law and order and it would render necessary far reaching changes in the central Government of India which I have never yet seen closely analysed and very rarely even cursorily examined."

Who prevented this course who is responsible for it? Sir, when can they be closely examined? The Reforms Inquiry Committee's terms of reference deliberately precluded us from closely examining them. We say so in the concluding part of our report,—the minority report,—we say further

"In conclusion to our mind the proper question to ask is not whether any alternative transitional system can be devised, but whether the constitution should not be put on a permanent basis with provision for automatic progress in the future so as to secure stability in the Government and willing co operation of the people. We can only express the hope that a serious attempt may be made at an early date to solve the question. Whether this attempt should be made by the appointment of a Royal Commission with freer terms of reference and a larger scope of inquiry than ours or by any other agency is a question which we earnestly commend to the notice of Government."

Sir, therefore, to sum up the situation within the next two minutes or three minutes, that are at my disposal I submit to this House that the question stands thus

First, are Government prepared to appoint a Royal Commission at an early date to examine the entire constitution? I see the Honourable the Home Member remains absolutely quiet

The Honourable Sir Alexander Muddiman Sir, I shall reply to the Honourable Member in considerable detail later on.

Mr M A Jinnah Second, do you honestly, sincerely desire us to submit to you the fundamental principles upon which a constitution ought to be built? Lord Birkenhead in his speech has said that he would earnestly consider proposals. There is the amendment. Consider it

Sir, one word more. Let me tell you this. India to-day is in a very critical condition. Believe me I do not say this as words of menace or threat. But let me tell you, India is determined to win her freedom. The manner and the measure and the time, either you determine in a reasonable spirit or else she will determine for herself.

Dr S K Datta (Nominated Member of a minority committee)

community I have, at least the opportunity of understanding and appreciating their demands and their desires. Sir, there are two types of minority communities in India. There is the "qualitative" type and there is the "quantitative" type. My friends representing the European population of this country, are representatives, it seems to me, of a "quantitative" minority, but I do not think any one of us will say that they are the representatives of a "qualitative" minority. The weight attached to their opinions in this House is so great that they may as well be a majority community. On the other hand, you have the case of the Indian Christians. There are 3 millions of them in British India who are both "qualitatively" and "quantitatively" minorities. The total Christian community in British India—I am not talking about the Indian States where there is a very substantial number of Indian Christians,—consisting of Indian Christians, Europeans and Anglo-Indians is 3,300,000. I have the honour to represent the 3 millions of them here. The other 300,000 are represented by various Members who sit in different parts of this House. I, therefore, hold that we are both "qualitatively" and "quantitatively" a minority.

Now, Sir, these communities demand representation. I will not say actual physical representation within this House, but they desire to be able to express themselves on every matter that concerns not only themselves but the welfare of the nation. Now, in what way can they obtain that representation? The majority report makes three recommendations with regard to these minorities. The first recommendation and the most concrete proposal is with regard to European constituencies. They tell us that the residential qualification for candidates to the Legislatures should be abolished and that the European should be a member-at-large of India generally. Furthermore, they say that even a prolonged absence from India is a matter which he ought to be able to cure quite easily. They go on to add that the European can go out of India, can stay away for months from India, can come back and still have a domicile in this country which gives him certain privileges. If I have read that section of the majority report aright it would mean that a European could be a Member of the House of Commons in England and at the same time a Member of this Assembly in this country. I do not see that anything can prevent him from doing that. What are the two other recommendations? Generally speaking, they say that factory labour should be represented in this House and the provincial Legislatures. Local Governments are going to be asked how they can do it. I need not deal with that point. My friend Mr. Joshi, I trust, will do so at a later stage of this discussion. Then they come to the depressed classes. How are these classes to be represented in this House? Again the matter goes back to the Local Governments. How will it emerge from there? Probably we will be told that it is one of the most difficult things for this community to be represented.

Now, Sir, I hold that the majority report—and, if I may put it, even the minority report—have not given consideration to the question how these unrepresented classes are to be brought within the orbit of influence of the new democratic institutions which have come to be built in this country. We desire to emphasize that this question is fundamental in any demand for further progress. In the second place, in what way are we going to meet the needs of these unrepresented classes? Has the question of education been considered as a basis of franchise? No recommendations have been made that the franchise for the classes should be on

the basis of education. Take my community which consists of 3 million people, of whom 300,000 are in school. You say "You have no money and therefore cannot be represented in this House or the provincial Legislatures." Whatever little money we had we have spent it on education. We have spent it on the education of our children and we ask that that fact at least should be recognised. We maintain that the communities that are trying to come up should obtain representation in this House as well as the provincial Legislatures on the basis of what they have accomplished.

Now, Sir, with regard to the protection of minorities. We have continually been told in this House that the present system is going to protect minorities. I do not believe it for one moment, and I will tell you why. Whenever there is a majority and a minority which circumstances bring together, they must come to an understanding as to future progress. If you have a third party, which is the protector of the minority, you will find that trouble will arise. It has always arisen in every part of the world. It was Russia who championed the cause of the Armenians and what happened? The Armenians looked beyond the frontiers of Turkey into Russia. England also championed the cause of the Armenians. Political conditions are such and the events are of such a nature that invariably the situation arises when the protector is compelled to sacrifice something to secure his own position and it is always the minority that is sacrificed. Therefore, the best thing for the minority is to come to an understanding with the majority and not trust to a third party. Well, Sir, let me taken up the case in this country. Government have said that they are the protectors of minorities. Under the old system it was true that they could assert their authority. But to-day what happens? Between the clash of the major communities the minorities—the smaller minorities—have to go to the wall. There is no other alternative for them. Take the experience of the last few years. Only in one province was a Christian Minister appointed. And what province was that? It was Bihar and Orissa which was at that time governed by Lord Sinha, who was himself an Indian. I hold that normally it would be impossible for a European Governor to go out of his way and appoint an Indian Christian to high office. And why? Because the European Governor will always have it at the back of his mind whether the particular move is going to pay or not. He will have no regard for justice. An Indian Christian was appointed a Minister under the regime of a man who was an Indian who understood the situation and who was determined to see that justice was done. I believe, therefore, that it is a dangerous thing for minorities to be protected by an outside body. We have to come to an understanding ourselves with the majority.

**Mr K Ahmed** - And if you do not come to an understanding?

**Dr S K Datta** . Now, Sir, I would confine my remarks to my particular community and I would not make any further statements with regard to other communities.

The roots of the Christian community lie in two very widely different communities in India. First the depressed classes or the community of the agricultural labour. One of the roots of that community lies



there, the other lies in the aborigines of this country. What is the movement? The movement is an uplift movement among these great communities who lie at the bottom of Indian society who look forward to bettering their own condition. That is what the significance of the movement is, and I therefore couple in my demand for the future the demand that those two communities should not be forgotten, the agricultural labourer on the one hand and the aborigines on the other. I have had experience of some of these communities. I was in the Chota Nagpur Division in 1919, and in that Division there were 200,000 Christians consisting largely of aborigines, and the great Christian Missions, both Catholic and Protestant, had for their education something like 400 schools. An enormous number of these aborigines go to these schools. I say there is the basis for going forward in the political education of these people and making it possible for them to be represented, to bring their needs and demands to the door of the nation's consideration.

Now with regard to the larger problems which we have been debating in this House. In the first place, Sir, I can only speak as an individual. I cannot do otherwise, but there are those of us who believe that the future of the nation, the needs of the nation are always greater than the needs and demands of single communities. We who represent the minorities have always to take this into consideration. How far this is going to help us to contribute to the larger and bigger life of India I do not know, but there is no other criterion of action for a community. Every other criterion is false. That is one thing which I should like to place before this House. In the second place I believe that those of us who are minority communities must come to some understanding with those of the majority. We come to co-operate with them and ask that opportunities be given to us to co-operate with them, and we are willing to do so. In the third place, I do not believe that the present system will satisfy the needs and demands of these minorities, particularly the minority to which I belong. And I will tell you why it is not going to do it. Naturally every minority, to use a common expression, is looking to see on which side the cat is going to jump, what is the future going to be, on which side do our interests lie? It is impossible under such conditions to do any constructive work. We desire to go forward and we do trust that opportunity will be given us to go forward. In the next place we have put money and time into the education of our people. We believe they ought to have a larger life, and therefore we want all barriers to be lowered, so that our people may take their place in the larger life of the nation. In the next place we have not merely educated our people. We have done something else. Ecclesiastically we have taught them the exercise of the vote. In hundreds of church councils thousands of people, ignorant in many ways, have been asked to exercise the franchise within these ecclesiastical courts. I am glad to see my friends, the Sikhs, are also going to exercise the vote in their ecclesiastical courts. The capacity for the exercise of this privilege is a tremendous asset in the future of the nation, and that experience is one of the things we desire be given to the nation.

Now, Sir, lastly, we come to the problem which has always been before us, namely, this problem of dyarchy. In some ways I have been a convert to the idea of dyarchy. The author and founder of the system of dyarchy I count among my personal friends. I heard him talk of dyarchy with the fire and inspiration that only comes to one in the

realm of religion, and I was caught by the inspiration of that fire. As I look round one wonders at the fruits of dyarchy. You must judge it by those fruits. I am not a politician but the defectiveness of dyarchy is one of the things brought home to one as one watches the affairs of this nation. Dyarchy, Sir, is an experiment very old in Anglo-Indian history. It is not an experiment of to-day. In 1765 Lord Clive embarked on what was one of the greatest experiments in dyarchy. The Muhammadan political thinkers divided the functions of Government into the *deuan* or the collection of revenue, and the *nizamat* or the administration. What did Lord Clive do? In 1765 the East India Company said they would take over the *deuan*, or the collection of revenue of Bengal and Bihar and Orissa.

**Mr President.** Order, order. The Honourable Member must bring his remarks to a close.

**Dr S K Datta.** What happened next. The administration or the *nizamat* was left in the hands of the Nawabs of Murshidabad. Sir William Hunter tells us in his history of the breakdown of the administration because of division of the two sides of government. I trust that we shall go forward because under the present system I believe that the whole of the administration is threatened and there will be a breakdown of the administration. I therefore will support the amendment which has been moved by my Honourable friend, Pandit Motilal Nehru.

**The Honourable Sir Alexander Muddiman (Home Member).** Sir, I propose to address myself directly to the amendment now before the House which has been moved by my Honourable friend, Pandit Motilal Nehru. Before I examine, as I hope I shall examine in some detail, the terms of that amendment, I will permit myself a few general observations on matters which appear to me to arise on its perusal.

In the first place, unless I am entirely mistaken, I see in that amendment an attempt to bring very different schools of thought within the scope of its terms. That is one very interesting reflection. (An Honourable Member here interrupted, but the interruption was inaudible at the Reporter's table.) I did not hear my Honourable friend, but as I was saying it seemed to me that an attempt was made to bring together within its terms very different schools of thought. The second observation of a general character which I should like to make on this amendment—I think it has been lightly touched upon by my Honourable friend the Finance Member when he was speaking this morning on this amendment,—is that if this amendment is intended, as I understood from the statements that have been made from various parts of the House, as a considered proposal from the persons who made it, for the future constitutional development, then I gather from its terms that those persons speaking with such authority as they have, have come to the conclusion that they envisage the future constitution of India as based entirely on Western ideas and Western conventions, that they have adopted the idea of Western representative government, that they propose to advance on that path, and on that path alone. I have found no trace of anything that is to be introduced from any constitution other than a Western constitution in this amendment. Now, Sir, if this amendment had only been moved for that purpose, that would dissipate doubts on one point on which we have never been clear. We are therefore, I gather, to understand that all parties, at any rate in this House, who subscribe to the amendment, consider that it is

not their creed to discard in any way the foundations on which those institutions have been based throughout the world, and that briefly is on the constitution of the English Parliament, and of the English Dominions under that Parliament. Am I to understand that that is in effect the intention of those who frame this amendment? The point has so far never been clear to me or to others I believe. I remember my Honourable friend, the late Mr Montagu, shortly before his death, was discussing this question with me. He said "I have brought forward in my reforms a scheme entirely based on Western representative institutions. I am not prepared to say that it will be the wish of India to proceed on those lines, but I have at any rate given the opportunity to the people of India to indicate their views in that direction." Am I to assume that this amendment finally rivets down the direction of the future progress of India so far as this matter is concerned in the minds of those who are responsible for it? If this is so, at any rate it has cleared the ground in one respect. If there is no desire to go back to any development of indigenous institutions or of Oriental conceptions of Government and we are asked to proceed on democratic lines to the counting of heads by the rule of the ballot box, then we know at any rate where we are.

Now, Sir, I have considered this amendment with the attention that it deserved, not only because of the reputation of the Mover, but also from the general evidence in support of it that has come from many parts of the House. What are the actual terms of the amendment? It involves, as I read it, three distinct stages. The first is that Parliament is to be asked to make a declaration dealing with certain points which are specified in the amendment. Now these points involve, and I do not doubt that this is intended, whatever the reservations, whatever the restrictions may be, a demand for full dominion self-government. That seems to me the only possible construction I can put upon it. That is to say we are now to go to the English Parliament and ask them to make a declaration which I presume would at any rate have to be supported by the assent of Parliament, that complete dominion self-government, subject to the very minor restrictions of a temporary character, which are contained in the Resolution, should be granted. After there is to be another step. Those who have moved and supported the amendment recognise apparently that the legislative bodies, as at present constituted, are not sufficiently representative to deal with a problem of that magnitude.

**Mr A Rangaswami Iyengar** They have no mandate

**The Honourable Sir Alexander Muddiman** I am told they have no mandate. At any rate it is recognised that the legislative bodies as now constituted are not constituted to deal with the problems which are referred to, and I may say somewhat lightly referred to, as details, and which are to be referred to a convention or a round table conference which is adequately to represent all Indian, European and Anglo-Indian interests. They are to deal with the details of the scheme, and they are to do so with due deference to the interests of minorities—and here I must pause—to comment that in the declaration that Parliament is to make there is nothing referring to minorities—they are to frame a detailed scheme, after making such inquiry as may be desirable. Thereafter, from that large and representative body, for if it was to be constituted in the manner laid down in the amendment it would be a very large body, from that large and *ex hypothesi* representative body, the matter is to be again referred

back to this House, not to the Indian Legislature even, but to this House. This House is then to approve of it, and then the scheme as approved by this House is to be submitted to Parliament to be embodied in a Statute. That, Sir, is the scheme as I have been able to discover it, of the amendment.

Now the first observation I would make on this is that it involves the repeal of the Government of India Act as it exists at present.

**Mr M A Jinnah** . No, amendment.

**The Honourable Sir Alexander Muddiman** Repeal and re-enactment. My Honourable friend interrupts me and says it does not involve repeal.

**Mr M A Jinnah** Certainly not, it can be done by an amendment.

**The Honourable Sir Alexander Muddiman** It does involve at any rate and that was a point I was going to develop, the virtual repeal of section 84A of the Government of India Act for, unless I have misunderstood my Honourable friends opposite, they have now changed their ground, and those who signed the minority report of the Committee consider that great constitutional advances may be made in India without any necessity for the authoritative inquiry which they themselves recommended. If I can gather anything from this amendment, it is that it proposes that His Majesty's Government should take this final step without inquiry that which I venture to think no person could consider would be possible under the Government of India Act as it now exists without the statutory commission which is laid down in section 84A of the Government of India Act. Then Sir there seems to be some difference of opinion on the point, and I should like to have cleared up the question whether these remarkable demands—I say remarkable in this sense that they must be admitted to be an extraordinary change in the existing constitution of the Government of India—whether these remarkable demands, which are specified in clauses (a) to (h) are handed to us as an ultimatum. I confess I should myself have read them as such, but my Honourable friend spoke of them as an “offer.” I will accept his words. When he makes that offer does he make that offer in the sense that these are the only terms which can be offered, that they are, as my Honourable friend Sir Charles Innes said, to be accepted or refused without alteration of a comma dot or semi-colon? That is a point of some interest to me. If I am correct in assuming that I have correctly stated the proposition and that you do intend to discard the idea of any statutory commission before a great constitutional advance is made, and you do intend to present these demands without alteration and without change, then I should like to ask one further question. This, Sir, is said to be an offer. I assume the language is used with due consideration. If so, Sir, and the offer was accepted what contract would result? What is the contract that would result if the Government accepted this offer?

**Mr M A Jinnah** Frame the constitution accordingly.

**The Honourable Sir Alexander Muddiman** *Do ut des*. We give this, what do we get in return?

**Mr C S Ranga Iyer** Co-operation.

**The Honourable Sir Alexander Muddiman** Co-operation (*An Honourable Member* “Full co-operation!”) Well, Sir, it is as well that we should know what the offer is sup

Now, Sir, I pass to another point. In the course of the debate the word "self-determination" has occurred not frequently but occasionally and it is, I think, an idea that lies at the back of many of the speeches that have been made. Now I suppose, if I understand it rightly, self-determination in an individual means the right to live his own life. Self-determination in a nation I suppose means the right to settle its own form of government. Now, Sir, which of us can live our own lives independent of outside influence? I have not heard of anyone, I have not heard of any nation. Phrases of this kind need accurate examination. They need checking. They may contain, and they do contain, a great truth, but they cannot solve any constitutional position, they cannot be used as an answer to practical criticism. Now Sir, what is the actual practical position? That is what I always try, if I can to bring before the House. It is admitted—I do not desire to reiterate it—that constitutionally any advance can only come from the English Parliament. It can come in no other way except in a way that I do not propose to contemplate. And in this connection I recognise with pleasure that Members generally speaking have refrained from using language that might be, at any rate in some quarters, regarded as threats. But constitutional advance must come through Parliament and with the goodwill of Parliament. It cannot come otherwise. Therefore why, when we discuss matters of this nature, do we use words that are calculated to prejudice the claims of India before that Parliament? Why do we say, "We will not take this from Parliament"? Why do we say "We do not want boons" from people who *ex hypothesi* have to give them to you if you are to get them? That, Sir, is a difficulty that I think is very real. I heard this morning in one part of the House a charge made that the English had been robbers and thieves. Sir, is that the sort of charge that will help the cause of India in Parliament?

**Diwan Bahadur T. Rangachariar** That was rhetoric.

**The Honourable Sir Alexander Muddiman** It may have been rhetoric, but I deprecate the use of such rhetoric. English people are very plain people, very apt to take words used at their proper meaning and they do no good to any cause. One speaker, I forget who it was, said that the Government, not this but I gathered almost any Government was like "Humpty Dumpty," to be thrown down. Sir, I will remind him of the nursery rhyme

*"Humpty Dumpty bartha par chath*

*Humpty Dumpty gir gia phat*

*Raja ki pultan Rani ke ghore*

*Humpty Dumpty lahin nahin jore"*

"If you throw down all Government you may find it rather difficult to pick up the pieces and make a new Government. Now I am quite willing to believe that this amendment has been put forward in perfect good faith. If I was a man of a suspicious nature I should be inclined to think that there might be a more Machiavellian aim in it. But I am not and I will take the offer as made in good faith although we have annexed to it impossible conditions.

**Mr M. A. Jinnah** No, no

**The Honourable Sir Alexander Muddiman** My Honourable friend says "No" My Honourable friend's position is to be one of very greatest difficulties in dealing with this amendment My Honourable friend has said in the minority report that what he wanted was an authoritative inquiry and he apparently at that time recognised the fact that from the practical point of view it would be perfectly impossible to ask Parliament to accept any large proposals except as the result of the investigations of the highest tribunal in the British Empire, a Royal Commission

**Mr M A Jinnah** Sir, may I rise to a point of personal explanation At that time I was not aware that Lord Birkenhead on behalf of the British nation would disclaim a monopoly in the art of framing constitutions and invite us to submit our proposals

**The Honourable Sir Alexander Muddiman** I think Lord Birkenhead's remarks were quite clear You will see that that was exactly the point I endeavoured to develop in the earlier part of my speech What Lord Birkenhead was talking about was the development of a constitution not on the well-known English basis

**Mr M A Jinnah** No Anything we think proper Provided it received general support in the country

**The Honourable Sir Alexander Muddiman** But a constitution which would give more free scope to that imagination which is so characteristic of India His actual words were

"It has been the habit of spokesmen of Swarajist thought to declare in anticipation that no constitution framed in the West can either be suitable or acceptable to the peoples of India"

and I think that bears out my contention as to his point

Now, Sir, nothing has struck me more in the course of the discussion that has taken place than the fact that till Mr Jinnah addressed the House I never heard any mention of the word "electorate" Mr Jinnah used it, but I never heard it used in any other speech

**Pandit Motilal Nehru** . It is in the Resolution

**The Honourable Sir Alexander Muddiman** I agree with my Honourable friend it is in the Resolution, but I never heard any one use it

**Mr M. A Jinnah** I used it

**The Honourable Sir Alexander Muddiman** I have just said so Now, Sir, when we are asked to take a step forward constitutionally one would have thought that the Assembly would surely regard the electorate as of great importance I quite admit that the House is probably getting very tired of hearing the replies that are given from the Government Benches where we point out difficulties, and I agree with Mr Jinnah that it is our business as far as we can to remove those difficulties and to remove them with your assistance and not to regard them as so many fences that are laid down barring for ever further progress I am not one of those who hold that at all, but it is not the faintest use not facing facts, and one of the great difficulties—and all of you who have really thought on this matter recognise it as clearly as I do—is the question of the electorate The evidence recorded in the course of the inquiry of which I was the unfortunate Chairman is very clear on this point It is idle to say when we use the word "electorate" we are scandalising not the court but the opposite Benches Sir, I have never scandalised the court in my life and

I trust I never shall. By pointing out these difficulties I suggest it is not scandalising the court, I must point out that one of the greatest difficulties in the way of the progress of India is the backward state of the electorate.

Now, Sir, you ask for a large thing. You are regardless of the smaller matters. My Honourable friend returned with thanks—I think those were the words he used—any small recommendations of the majority report. Sir, is it not well sometimes to take what is offered, not necessarily—I should be foolish to suggest that—in a spirit of thankfulness but at any rate to take it? Is it not wise sometimes, when asking for large concessions, to show that small humble offerings are not unworthy of consideration? Is it not wise, Sir, to regard this problem from a practical point of view? If to-morrow I were authorised to stand in my place in this House and say “We will accept this—we will go to Parliament”, what reasons could I give, what reasons could the Government of India give? What could they say?

**Mr M. A. Jinnah** Quote my speech

**The Honourable Sir Alexander Muddiman** I have no doubt that would be very interesting but I was considering an argument which would be likely to be effective. Could any of the arguments suggested be valid? Could we point to the history of these new institutions since their commencement and say, “Now the time has come when without inquiry, without going through the procedure without which no great reform as far as I know in connection with India has ever been carried out, we recommend these great steps to be taken”?

Sir, you have heard the speeches of the Secretary of State, you have learnt the terms on which he made his offer—and it was an offer he made. He made it clear that acceleration of political progress was a matter of co-operation. He made it clear that to refuse to work what you have got is not in itself a claim for further progress,—it is indeed likely to obstruct further progress. He laid down the position that the Government at home were not unsympathetic—that they did recognise that to stick to dates is not necessary, wise or desirable. He gave what my Honourable friend, if he was not speaking ironically, described as a very generous offer. Sir, I say, do not close the door by making the position more difficult. Do not give us an ultimatum under the guise of an offer. Do not say “We will grant you the fee of Blackacre if you empty the sea”. Do not suggest terms of that kind. It is neither wise nor, I suggest, likely to be effective. I earnestly hope that you will believe me when I say that we are not merely giving you a blank answer to what I recognise is an attempt to put down on paper what we have never seen on paper before—the united amendment of both parties.

There is one other matter, Sir, and that is this. We were charged in one of the speeches with doing nothing in connection with the examination of provincial autonomy. I think it was my Honourable friend Mr Jinnah who quoted from the Secretary of State's speech and said quite correctly that it was useless to charge the Reforms Committee with not making an investigation into the possibilities of provincial autonomy, because they were not within the scope of the Report. I agree in those observations, and I agree also that an investigation of that kind could hardly be made by a committee of that nature or by any committee, and in this connection I may tell the House that the Government of India have

recently availed themselves of the opportunity of the late occupant of your Chair, Sir, still being in India. They have invited Sir Frederick Whyte, and he has accepted the invitation, to investigate and report to us on the relations between the Central and Local Governments in other parts of the world, with special reference to conditions in India. In that and other directions, Sir, much research work must and ought to be done. My Honourable friend, Sir Basil Blackett, also proposes, I understand, to have the problem investigated more particularly from the financial point of view. In my judgment that is the way in which we can prepare, what I referred to in my first speech, the necessary evidence which is to be laid before and must be considered by the Royal Commission whenever that Commission may be appointed.

Pandit Motilal Nehru. May I interpose just for a minute, Sir? The Honourable the Home Member has put certain questions. I do not know if you will give me an opportunity to answer them now or at a later stage of the debate. He has expressed his inability to understand some of the clause of my amendment and he has put certain questions in connection with them. I do not know if it is permissible to me to answer those questions and if so at what stage of the debate.

Mr President. I do not know whether the Honourable the Home Member desires the Honourable Pandit to answer his queries. If he does, the Chair would permit the Honourable Pandit to speak at this stage.

The Honourable Sir Alexander Muddiman. I put the questions as one does in a speech, and I assume that they will be answered in the course of debate by some one on behalf of the Honourable Member.

Pandit Motilal Nehru. If my Honourable friend does not want me to answer his questions, I am satisfied.

Mr Abdul Haye (East Punjab, Muhammadan). Sir, I am thankful to you that even at the fag-end of the debate I have been afforded an opportunity to express my views on this all-important question. Sir, before I proceed, I want to impress upon this Assembly that we who occupy the back benches in this House lie under a great disadvantage. On almost all important occasions I have been on my legs, but have failed to catch the eye of the Honourable President. I would not have given expression to these views but for the speech of the Honourable Sir Frederick Whyte which he delivered at the time when the dinner was given in his honour. My grievance is that as I rise to give expression to my views the Treasury Benches are empty. It is only my friend the Honourable Sir Basil Blackett who is there. I hope this Honourable House will bear with me if I talk in parables to-day, because a Persian poet has said

*"Khushtar ān bashād ke sirre dilbarān,*

*Gufta ayad dar hadīs i digrān."*

which means

"When we have talk of those whom we love, it is better to talk in parables."

Sir, to me it looks as if in this unfortunate country the bureaucracy had built a very lofty and palatial house for itself. As we, the sons of the soil, entered that compound we noticed that almost every nook and corner of that building was labelled "For Europeans only." But it was the duty of the bureaucracy to accommodate us also. One gentleman, i.e.,



the agent of the bureaucracy, patrolling in front of the verandah, bluntly told us that our proper place was there at the outskirts of the estate where thatched houses were erected out of mud and sundried bricks. We were housed there. We lived there for generations, and all the time, I assure you, we continued swearing at the bureaucracy, although the bureaucracy evidently thought we were quite contented. It so happened that in the year of grace, 1914, the big palace caught fire. At midnight the lord of the house was on the top of the palace and was crying. He said, "People of my house, my brethren, our house is on fire." It was open to the lord to say, "Strangers, neighbours, I am in trouble, come to my assistance out of sheer humanity." The impression created at the time was that it was "our" house that was on fire. We stirred in our beds. In the darkness of the hour, half-naked, with buckets of water on our shoulders we left those dingy *kothries* and proceeded to the scene of the fire. Sir, the bureaucracy will excuse me if I say that our half nudity did not offend their sense of delicacy at the time. We laboured hard, we co-operated with the bureaucracy, we fought shoulder to shoulder, and the fire was brought under control. I am sorry, Sir, that His Excellency the Commander-in-Chief is not in his seat, otherwise a gallant soldier as he is, His Excellency would have borne me out when I say that it was no mean part that we played in bringing the fire under control. The fire was quenched. With a sign of relief the bureaucracy was taking notice of the damage that was done to the palace. We who were intruders, we who were under that roof for the first time, were noticing what had remained of that big palace, and we thought that we were co-sharers in the building. What happened next? Smiles were extended and, Sir, a little while after that we were politely told that our people in the outhouses were waiting for us. Just at the time when we were thinking that the bureaucracy would also bring our people under that roof, we were told that our place as usual was there in the outhouses. Like a Drill Instructor the order was pronounced "As you were!" But mind you, Sir, we have refused to obey that order. We are not to-day in those outhouses, we are still in the verandah of that big building although we are being hustled out of it by men like my Honourable friend Sir Basil Blackett and the Honourable the Home Member.

Sir, in the heat of this discussion let us not forget certain stern realities that obtain in this country. It is my painful duty to strike a note of warning. Let it not be taken as a jarring note. I have never struck a jarring note on the floor of this Assembly so far, and if I am true to my religion and to my country, I deem it my duty to fight shoulder to shoulder with my Honourable friend Pandit Motilal Nehru and my Honourable friend Mr. Jinnah. But, Sir, a lot of argument has been advanced against this amendment. It has been said that one of the greatest obstacles that lie in our way is the Hindu-Muslim question. Sir, I have no hesitation in saying that the danger of the Hindu-Muslim question has been magnified. (Hear, hear.) Sir, even if these differences continue, we are bound to fight for Swaraj on the floor of this House. We shall have responsible government established in this country in spite of those differences. Sir, in this fight for liberty there are millions and crores of Indians that are arrayed against the bureaucracy. When in the face of these facts you find the noble Lord Birkenhead and His Excellency the Governor General refusing to recognise the justice of our cause, it is no doubt mainly due to the fact, as my Honourable friend Mr. Chaman Lal has put it, that they have at their back the power of the howitzer and the

machine-gun But apart from this, let me remind this Honourable House that they are also counting to a great extent upon our mutual differences Sir, the bureaucracy knows that when the order for attack will be pronounced, and the time for making a charge will come, in all probability the Hindus and the Mussalmans of India, instead of directing their attack against the bureaucracy, would prefer to kick one another Sir, I have already said that this argument of the bureaucracy does not hold good, but is it not our duty to meet them on their own ground by composing our differences at the earliest possible opportunity? (Applause) Sir, may I not address a few words to the Honourable the Leader of the opposition? (*An Honourable Member* "You cannot do that here") When we came first to the Assembly, it was in February 1924, if the Honourable Members remember, the position was this The memorable Resolution about the establishment of responsible government in this country was to come before this Assembly for discussion We had some preliminary meetings in which some responsible leaders of Indian thought outside this House also participated I deem it my duty to remind the Honourable Pandit Motilal Nehru that at the time amongst the Muhammadan Members of this House, there was a section that was diffident in moving along with us What they said was that although they had no objection to taking a step forward, yet they wanted that the rights of the Mussalmans should be settled beforehand The time at our disposal was very short, and I was one of those who thought that we should not make such settlement a condition precedent I implored them to stand by the side of Pandit Sahib and to vote for the Resolution Sir, I want to make it known to this House and through this House to the country abroad, that an assurance was given to us that early attempts would be made to compose all those differences, especially those that still obtain in the Punjab Sir, to my great regret, no attempts have been made in that direction so far Let it not be understood that I want in any way to lag behind All I want to impress upon this Honourable House is the necessity of composing those differences, and on behalf of my community I want to make it known perfectly well that we want no favours We want our legitimate rights to be protected We are here to-day without any settlement of those rights, and still I am prepared to vote with you, but Sir, delay in these matters is dangerous If you are going to sleep over these matters, I am afraid you would be sitting upon a volcano that may burst at any moment

**Mr K Ahmed** Hear, hear (raising his hand towards Pandit Motilal Nehru), (Laughter)

**Mr. Abdul Haye** I only hope, Sir, that if ever that volcano bursts it will not be so big an affair as my Honourable friend Mr Kabeerud-Din Ahmed is With these few remarks I heartily support the amendment of my Honourable friend Pandit Motilal Nehru

**Nawāb Sir Sahibzada Abdul Qayyum** (North-West Frontier Province Nominated Non-Official) Sir, having listened to the very eloquent speeches of the Honourable Members who have preceded me, perhaps the House might like to hear the common sense point of view of a resident of the North West Frontier Province It is very seldom that we hear any mention of that unfortunate province made in the debates of this Assembly At this late hour, Sir, I should like to mention one or two points only I first speak as a Mussalman of the North West Frontier Province As such, Sir, the Muslim point of view has already

been expressed in this House by some of the Muslim Members, particularly Maulvi Muhammad Yakub and Mr Abdul Haye

**Mr. Devaki Prasad Sinha :** Not by Mr Jinnah ?

**Nawab Sir Sahibzada Abdul Qayyum :** The Muslim point of view, I say Well, I expected that Mr Jinnah would also mention something of the resolutions of the Muslim League that were passed at Lahore, but perhaps he thought it advisable to leave it to Maulvi Muhammad Yakub, who was also a member of the League and who, I believe, took part in its deliberations. The Muslim point of view was also expressed in a statement sent by the Muslim Members of this Assembly to the Muddiman Committee and I believe it is in the Report. I need not however worry myself much with the Muslim point of view, except that, as Mr Rangachariar said, there is not a single Mussalman who does not want advancement by constitutional methods. However far I may be coming from, I too want advancement in that direction. But both the Muslim League and the Muslim Parliamentary Party in this House have expressed their views under certain conditions and with certain essential provisions, and if those provisions and conditions are fulfilled the advance will be most-welcomed by the Mussalmans. What the Muslims are really afraid of is that their condition might be that of the Indians in South Africa when Dominion status is achieved by India, and until then, Sir, the Muslims do not want to be left out of the administration and the government of the country, as they at present are to a great extent. Those are the only two conditions to be fulfilled, conditions which the Muslims are most anxious to be satisfied about and secure before any advancement is made. But, as I have said before, it is not this that I am driving at. It is the North West Frontier Province, that unhappy and unfortunate province, to which I should like to draw the attention of this House. In the Muddiman Report both in the majority report and the minority report, I do not find any mention of my province. In the Resolution before the House and in the amendment proposed by the Honourable Pandit Sahib there is no mention of that province.

**Pandit Motilal Nehru** My amendment applies to the whole of India

**Nawab Sir Sahibzada Abdul Qayyum** There is just a slight mention of minorities, but it is too vague. You do not bring in the question of the North West Frontier Province which is very very important and which should have been dealt with more clearly by the Muddiman Committee and by everybody.

**The Honourable Sir Alexander Muddiman** I should just like to explain, Sir, in reference to this that the Reforms Inquiry Committee dealt only with Governors' provinces. That was their reference.

**Nawab Sir Sahibzada Abdul Qayyum** Then do I understand, Sir, that the North West Frontier Province is not part and parcel of the British Empire. The mention of the depressed classes and of labour is there. The Committee recommend some franchise for the depressed classes and some extension of the franchise for the labourer, but not for those stalwart robust people across the Indus. That is what surprises me very much, Sir.

Maulvi Muhammad Yakub. They are too formidable for the franchise to be given to them

Nawab Sir Sahibzada Abdul Qaiyum. I will come to that point, Sir. The reasons which to my mind can be brought against the disfranchisement of that province can only be these

Pandit Shamlal Nehru. We want to give you complete self-government

Nawab Sir Sahibzada Abdul Qaiyum. But that will be only after you attain Swaraj. The reasons can be that we are either backward in education, that we are troublesome, that there is no money to be got for running the expensive machinery of a Council, or that there is no demand for Reforms. Those to my mind can be the only reasons for the disregard of our rights. The present Government of India Act allows some sort of constitutional advancement and a Council for the North West Frontier Province but even that is denied to the Province, Sir, I think the reasons can only be these. As regards education I can assure you that we have made a great advance in education recently. We have got three fine colleges in the Province. We turn out a large number of graduates, if graduates can be of much use in this world, and we also give solid common sense education to our people. If you only go and see the rifles and other articles manufactured by some of our people you will know what kind of capacity they have got for practical education and practical knowledge. You will want these people one day and you may need to use them in the defence of the country one day. Sir, as regards the ordinary degree education, we have made a great advance in that direction. Not only that, Sir, but if you will compare us with the sister province of the Punjab and especially the western districts of that province, you will find they are more backward in education. Students from the Mianwali and other districts of the Punjab receive education in our institutions. Why should they enjoy reforms and not we? Simply because an administrative line is drawn between them and us and we are deprived of the benefit of these reforms.

The second argument perhaps is that we are turbulent. Turbulent we may be, Sir, but do you mean to say that we are more turbulent than the Bengalis? They go in for murders and dacoities not for gain but simply for political reasons. They are worse than us, because they do not gain anything by that materially. We only raid and commit offences when we want to get something to live upon, and when we have plenty to eat we do not go in for these offences.

The third reason may be an economic one, or the question of expenses. As a matter of fact there will not be much initial expense. The estimate that was made by the Frontier Inquiry Committee was not a very big one. It is a very modest one, Sir. I think in the long run there will be a saving and a good deal of money may be saved by starting some sort of reforms to secure the sympathies of the people there. You need not give daily allowances to the Members of the Council. You need not pay the Ministers at all. Somebody may come forward and work as honorary Minister. You may hold the meetings in one of the Houses now available there. Practically I do not think there will be much to spend in the initial stage and not much expense on the ~~revenue~~ side.

There is still one great objection which I believe is now passing in the mind of the Home Member and that is that he perhaps believes that there is no desire for reforms. I can honestly tell him and tell him through you, Sir, because you have said that the remarks must be addressed through the Chair, that there is a great demand or an earnest desire for it. If you want to make sure about it, you have only to turn to the pages of the Frontier Committee Report and you will find there an almost unanimous demand for advance. The only difference comes in when the shape of the advance is discussed. Some support the majority report and some the minority report, but there is a unanimous opinion of both the majority members and the minority members that the Frontier people are quite fit for advance. Well, as to the desire. Sir, there is a good deal of correspondence on this subject in the Press of the Punjab. We have not got any Press or else I should have quoted to you opinions from our own Press. We depend upon the Punjab Press. The Punjab Press publish some of our letters and articles but not much. If you wish that there should be another inquiry to show whether the people want the reforms or not, I can tell you that there will be a cent per cent demand, although there was 99 per cent at the last time. I hope you are not waiting for the time when the people should protest about it in the form of a *hijrat*, or something of that sort. But I hope that things will not come to that pass and that some sort of reform will be given to that province. I appeal to the Members of this House. Will you not really put in and support a Resolution recommending some reforms for that unlucky province? If you will not, then you will be lacking in patriotism in regard to a province which claims to be a part of British India. If you are asking for further reforms for yourselves, without our being given an opportunity to try the present reforms, I am not going to support your demand. So long as my province is left out, I do not believe that the rest of India deserves any advance.

**Mr President** The Honourable Member has exceeded his time limit by three minutes.

**Nawab Sir Sahibzada Abdul Qayyum** I have not got much to say, Sir. All that I want to say is that either we must have some reforms or we should be left out of the Indian Empire. I think the rest of India should not be allowed to go any further until they also carry us along with them. I assure you, Sir, that if given reforms or a local Council we, the frontier Pathans, will prove to the world how a great majority can be tolerant, just and even generous to small minorities. There are numerous troubles in the country, communal differences, and various other things. Only three years are left between now and 1929, and those three years can be most usefully spent in reconciling all those differences and troubles and in making a unanimous effort towards paving the way for an advance for everybody—the depressed classes, the frontier Pathans, the Baluchis and others—by giving them the necessary education, etc, etc, and in preparing the whole country for an advance within these three years. I am sure that after these three years, during which we can set to work composing differences, etc, as suggested by Mr Abdul Haye, there will be the time for substantial close attention to the arguments put forward in favour of the amendment advance. I will not detain you further. (Laughter)

**Sir Darcy Lindsay** (Bengal European) Sir, I have listened with close attention to the arguments put forward in favour of the amendment

moved by my Honourable friend Pandit Motilal Nehru, but many of the speakers appear to have strayed from the issues before the House and there has been really very little said on the merits of the amendment, except that the vote in support of it was going to be unanimous. It appears to me, Sir, to be a child of premature birth and of doubtful parentage. It is rumoured that the Independent Party lay claim to parentage. We have heard from my Honourable friend Lala Duni Chand that the scheme was prepared in a matter of two or three hours and this probably accounts for the want of enthusiasm with which my Honourable friend Pandit Motilal Nehru moved his amendment. Whoever the parent may be, it serves the purpose of putting forward the views of some Members as to how India can best be governed until she obtains full responsible government within the Empire. Like the Honourable Pandit whom I understood to state he would not waste the time of the House in discussing the recommendations of the majority report, for he did not want the advance the recommendations may give, I do not propose to debate the pros and cons of the proposals he puts before us, not for the reason he gives, but because no time has been given to consider matters of such moment to India and of very far-reaching effect. It, however, appears to me, Sir, that when one wants to get something done it is not altogether wise to commence by kicking the person from whom favours are sought, be the cause ever so righteous.

**Pandit Motilal Nehru** No favour is sought (*An Honourable Member* "Natural right")

**Sir Darcy Lindsay** As pointed out by the Honourable the Home Member, there is no getting away from the fact, unpleasant as it may be to some, that the British Parliament have through the Secretary of State first to be won over to the cause of India if more rapid progress towards the ultimate goal is to be secured, and it is not by heroics and beating the big drum that a people thousands of miles away are likely to be convinced that the demands are just and must be acceded to at once. The House, I am sure, realises that extravagant speeches cut no ice and are likely to do harm to the cause of India. Sir, extravagance in speech is at times dangerous and apt to be misunderstood by those who are unable to realise that some Members do not always mean all they say. In reply to the Honourable the Home Member I heard an Honourable Member remark that it was mere rhetoric. Do not alienate the good-will that undoubtedly exists. You have only to read the speech of Lord Birkenhead delivered in the House of Lords to realise the close and sympathetic interest he takes in Indian affairs, and his desire is to aid India if she will only respond (*An Honourable Member* "Question"). What he asks is that we should co-operate in working the present Act instead of refusing to have anything to do with it as is now happening in Bengal and the Central Provinces (*An Honourable Member* "Is the present Act workable?"). Certainly, Sir. Even assuming that there are defects, is that any reason for its entire rejection in the demand for immediate Swaraj? In inviting us to produce a new constitution which carried behind it a fair measure of general agreement among the people of India, he certainly imposes upon the political leaders a herculean task. It is not certain that if at the present time it were possible to frame a constitution reasonably acceptable to all in its protection of minorities and that could be worked successfully for the real benefit of India, we would have already produced the same? The best we can do at the moment

is to put forward the scheme as outlined in the amendment which, as I said before, has received a very lukewarm blessing. By all means let it be considered by a Royal Commission or any other agency, but would it not have been better to bring it forward at another time and after fuller investigation by all parties in the country and not merely as a proposal put forward by the Members of the Assembly? Several speakers, including the Honourable Pandit and Sir Sivaswamy Aiyer, have asked for a change of heart on the part of Government. But might I suggest that a little reciprocity in this direction might be beneficial. At present it is more take than give (*An Honourable Member* "What have you given?") Also why should the National Party have the monopoly of distrust referred to by these speakers? There should be no talk of distrust and it is here where a change of heart is required. To my mind it is the germ of distrust that is responsible for most of our trouble. I say again, Sir, co-operate in working the reforms for all they are worth and prove that we understand responsibility in its true sense. It is by these means and these means only that the goal will be reached. You, Sir, have set us a fine example in your decision to co-operate in working the Reforms (Hear hear) and I hope your earnest appeal to us also to co-operate will bear good fruit. The other course, namely obstruction, only helps to put the clock back, and where is the satisfaction to any of us? I suggest to the Honourable Pandit that co-operation should be mutual and not all one-sided as he appears to want it. I refer to the statement that his amendment forms the very minimum his Party can put forward. Other speakers endorsed this and in fact present a pistol at the head of Government with what appears to be threats. That is not my view of co-operation. The great advance India has secured under the present Act must surely by now be recognised by the large majority of those who condemned the reforms because in their view immediate self-government and nothing else would suffice. It is well-known that the present Assembly are doing real good work, especially in Committees (*An Honourable Member* "Is it not co-operation?") in the exercise of the powers they hold and there is an advance all along the line that was never possible under the old regime. The Members have discovered that the Act gives very real powers to the Assembly and Councils towards progress and that it is preferable to exercise same rather than adopt a policy of obstruction. In other words, grasp the substance instead of losing same by fighting for the shadow. I think it was the Honourable Pandit who said "It is waste of time to try and work the reforms. Will he place his hand on his heart and say that he truly believes it?" (*Pandit Motilal Nehru* "Yes, I do") Who can deny that the first Assembly made good use of their new powers and brought about important changes that will be of lasting benefit to India. Did we not in the very first Sessions drive home the necessity for retrenchment in every direction, and as an earnest of this all Demands for Grants were cut by 10 per cent. This brought about the appointment of the Retrenchment Committee with that great man Lord Inchcape as Chairman to whom India ought ever to be grateful. He and his Committee, the members of which were chosen from the very best India could give including our good friend Sir Purshotamdas Thakurdas, who was then a Member of the Council of State, took off their coats and worked untiringly in their investigations. The result was the production of a report of much value that has become a standard work of reference to many Committees. We know how many crores have

been saved to the country in addition to which economy is now the order of the day. Other important measures were introduced and I think it has been proved up to the hilt that the reforms have in many respects been a success and of much value so far as the Central Legislature is concerned. Surely my Honourable friend Diwan Bahadur Rangachariar must admit this in spite of what he said about coming here month after month only to know our votes do not count. It is largely due to the Lord Meston Award which left no money to many of the provinces that the results there have been unsatisfactory. But I do not quite agree with my Honourable friend Mr. Shanmukham Chetty who assured the House in solemn terms that dyarchy has absolutely failed and that it was but a camouflage of democracy.

To return to the main question before the House, namely, the consideration of the Report of the Reforms Inquiry Committee, the minority appear in some measure to endorse the main proposals of the majority for certain amendments within the Act and I accept the same and intend to vote for the Resolution. The debate has been so much on the political issue that few Members have made any effort to comment on the recommendations of the majority report. The very real and notable advance made in those recommendations has therefore escaped the notice of the House. I refer particularly to the relaxation of control by the Secretary of State to additions to and alterations in the Devolution Rules and Instrument of Instructions enjoining joint deliberation, joint responsibility of Ministers and alteration of the power of control of Governor. These recommendations if accepted will mean a real and notable advance in responsible government and are worthy of the earnest attention of the House. To vote for the amendment gives a direct negative to these recommendations.

It is true the minority ask for a Royal Commission or other agency with freer terms of reference and larger scope of inquiry. But I fail to see how we are at present in a position to put forward an unanswerable claim for advancement and proof that the country is really ready for the same. Judging by the amendment, the demand is for a very material advancement. If I were other than I hope a good friend of India I would support the demand for the early appointment of a Commission. To my mind the risk is great and the results of the inquiry might prove far less satisfactory to Indian aspirations than an inquiry at a later stage—not necessarily 1929—when by co-operation and mutual trust the country can prove that it is more ready to advance.

**Mr N M Joshi (Nominated Labour Interests)** Sir, not being a constitutional politician, I propose to confine myself to my usual sphere. Considering the report of the majority of the Muddiman Committee, I think it has failed to do its duty entirely. They were asked to consider the defects in the working of the present reforms. They could not discover that the real defect in the working of these reforms was that the machinery itself was defective. The machinery constituted by the Reforms Act was unsuited to protect the interests of the Indian masses and the working classes. Sir, there are many protectors of the interests of the masses and the working classes in this House. The gallant



the Indian masses in every sphere of their lives, such as agriculture, education, sanitation? It will be the verdict of any impartial observer that the trustees have failed entirely to discharge their duties. Sir, I am interested in the welfare of the working classes. I assure my friend Colonel Crawford that I do not claim to represent them. If I had claimed to represent them I would not have given notice of the amendment which I have given. I want the working classes to be represented in this House by their true representatives. Now, Sir, having studied the problem of the conditions of labour in this country, and the remedies taken by the Government of India, I can say this that the Government of India have almost failed to do their duty by the working classes. No doubt there is some labour legislation on the Statute book of the Government of India, but what is the history of his legislation? The first Factory Act was introduced by the Government of India and passed, not because they cared for the interests of the working classes but because they cared to protect the interests of Lancashire. An amendment was introduced with the same object. Then there were some further amendments made, but they were not due to the desire of the Government of India to do good to the working classes of this country, but these amendments were made because the international world put pressure upon the Government of India. What is the history of the Indian Mines Act? It was the Kaiser of Germany who called a conference at Berlin, which made the Government of India introduce and pass the first Mines Act. The Indian Mines Act was also amended not because the Government of India cared to do any good to the working classes of this country but because pressure was put upon them by the International Labour Conference at Washington. But there is some kind of labour legislation. One of them is the Workmen's Breach of Contract Act which was passed by the Government of India in order to give control to European employers of this country over their employees. They passed the Assam Labour and Emigration Act for the same purpose. This legislation is to the credit of the Government of India. If the interests of the working classes are to be protected, the first thing necessary to be done is the introduction of responsible government in this country, and when I talk of this let me make clear what I mean. I want that responsible government based upon suffrage of the common people of this country.

This brings me now, Sir, to the question of the franchise. Although I am ready to support the amendment of the Honourable Pandit I must express my disappointment at the wording about the franchise in his amendment. He suggests that the franchise should be as wide as possible. I am not satisfied with it. I want that every adult person—man or woman—in this country should have the vote, that he should be enfranchised. It is wrong to base the franchise on the property qualification. In my opinion it is almost immoral to base any franchise on the possession of property. It only means that you give greater value to property than to human life. If this constitution is to be improved, the first thing necessary to be done is that every adult person in the country should be given the vote. There may be difficulties of creating constituencies but I am sure that these difficulties could be overcome. As long as that is not done, any Legislatures that you may create will not be representative of the people of this country. I hope that the Honourable Pandit will, therefore, amend his amendment and introduce adult franchise, so that the common people of the country will be benefited by it.

Then on behalf of the working classes of this country I also want to make one more proposal. The majority and minority of the Muddiman Committee agree that representation of the working classes in the Indian Legislatures should be increased and they also express their opinion that that representation should be by election, if possible I say, Sir, that as long as the employing classes in the country have special seats reserved for them to be elected by their own organisations, the working classes should likewise also have their seats to be elected by their own organisations. So long as the employing classes are given special seats, there is no reason why you should not give special seats to the working classes in the country. The All-India Labour Congress have therefore asked for representation for the working classes in the country to be elected by the organisations of the working classes. They ask that in the Central Legislature they should have at least 12 seats reserved for the working classes. Under the present constitution there are about 20 representatives of the employing classes in this Legislative Assembly. We, therefore, say, give us at least 12 representatives for the working classes to be elected by the organisations of the working classes. They also claim that in the provincial Legislatures they should be adequately represented. They ask for 12 seats in Bengal and Bombay, 8 seats in the Punjab, Madras, Bihar and Orissa and United Provinces and Burma, 6 seats in the Central Provinces and Assam. Sir, this demand is a very moderate demand. Personally I should have asked for a larger representation. I also make it quite clear that whatever representation is to be given to the working classes through their organisations must be based upon the principle of election. They do not want any nomination any more.

Sir, I should like also to say one word about the representation of the depressed classes and the other classes whose interests are generally neglected. I claim that in their case also adequate representation should be given to be elected by their organisations. Even in their case I say the principle of nomination should hereafter be given up. Sir, if the Government of India give effect to my proposals for adult suffrage, and so long as the employing classes have got special representation, give special representation also to the working classes and to the depressed classes and the criminal tribes and the aboriginal classes, I am quite sure responsible government in India will be very helpful to the interests of the masses and the working class.

Sir, lastly, I would say only one word. When I ask for responsible government in this country in the interests of the masses and the working classes, I am not under a delusion that responsible government will immediately bring heaven for the working classes and the masses in this country. I am quite sure for many days to come, even after the introduction of responsible government and the granting of adult suffrage, the capitalist classes in this country will be very powerful. Still, Sir, what I feel is this, that under the present circumstances the capitalist classes are more powerful than they will be under any responsible government in this country. What is the position to-day? We have got the European officials who are the servants of the European capitalists. We have got the Indian officers, who sympathise with the Indian capitalists.

**The Honourable Sir Alexander Muddiman** I am sorry to interrupt the Honourable Member, but did I hear him say the servants of the Crown are the servants of the European capitalists? Will he repeat that?

**Mr N M Joshi** Sir, they are in effect so

**The Honourable Sir Alexander Muddiman** I note that

**Mr N M Joshi** Sir, to-day, whenever you discuss any question of protection or such subject, you find almost an alliance between the Government benches, the Indian capitalist and the European capitalist. When real responsible government is introduced, at least one section of this triumvirate will be weakened, and to that extent the work of Indian labour and the Indian masses will be easier. I am quite sure, even under Swaraj, the working classes will have to make a great struggle to come into their own, but under responsible government that struggle will be more direct, more straight and easier. It is in this sense I support the amendment of the Honourable Pandit

**Pandit Madan Mohan Malaviya** (Allahabad and Jhansi Divisions Non-Muhammadan Rural) Sir, I was very unwilling to take up the time of this House at this hour, but the very kind insistence of several friends that I should say a few words in support of the amendment has compelled me to seek your permission to do so. The Resolution has had a very full discussion for two days. Nearly all aspects of the question have been brought before the House, and I do not propose to travel over the ground which has been travelled over by many other speakers, so far as I can help it. I will draw attention to a few points which have not been dealt with because they came in very late in the debate. One was in the speech that my Honourable friend Sir Darcy Lindsay made. He drew attention to the great progress that has been made in this country, to the prosperity which has come in the wake of British administration. Another member, the Honourable Mr Cocks, also laid stress upon that point. We do not dispute it. We gladly recognise that a great deal of progress has been made in material respects under the British administration. Our contention is that if we had a really representative Government, if we had a system of responsible government, the progress would have been ten times perhaps twenty times, greater than it has been.

**Mr H G Cocks** Perhaps not!

**Pandit Madan Mohan Malaviya** While therefore we gladly and gratefully acknowledge the work that has been done by British administrators, while we acknowledge that many of them laboured honestly and honourably to the end of their lives in the service of this country and the Crown, without in any way derogating from the work done by them, we feel that if we had the chance to co-operate with them as real co-workers, as co-adjutors, as men possessing the same powers that they possessed, the face of this country would have been more bright, more smiling, more a matter of honour and satisfaction both to England and to India.

Sir, I will now briefly invite attention to the genesis of the statement which Lord Birkenhead made. That statement, as the House is

“ This conclusion ”

that there is no half-way house between the present constitution and a wholly new constitution—

“ is really implicit in the report of the majority, though they do not emphasise it, and this consideration the minority took up very seriously. Is it not expedient in the interests of all concerned that the recommendations of the minority, with which the Secretary of State and the Governor General may agree, be now adopted, in order to ease the dissatisfaction of all parties with the present constitution, and give them hope that a real system of responsible government can be set up, and that the Government should at once take in hand the examination of all the known defects in the constitution ? ”

That, Sir, was the point which Lord Olivier put before Lord Birkenhead in the House of Lords, and he asked for a direct answer. In the course of his speech on that motion Lord Olivier drew attention to a very important fact, and that was the statement made by Sir Muhammad Shafi, who had signed the majority report, to a representative of the Press, which Lord Olivier quoted at length. In that statement, free from the trammels of office, Sir Muhammad Shafi said distinctly that he felt that there should be that larger inquiry which the minority had recommended. I do not wish to take up the time of the House by reading the whole of that statement. It is quoted in the official debates of the House of Lords. Sir Muhammad Shafi made it very clear that while he agreed with the recommendations made by the majority, he also agreed with the minority that there should be the larger inquiry which they had recommended. He said as follows

“ While immediate acceptance by His Majesty's Government of the recommendations for action within the Act made by the majority would result in a smoother and more satisfactory working of the existing constitutional machinery, the institution of a larger inquiry as advocated by the minority into the defects and difficulties inherent in the constitution itself for the purpose of placing the constitution on a permanent basis with full responsible government as the final stage would satisfy by far the large majority of politically minded Indians. Action on these lines is in my opinion certain to bring a two fold result. It would in the first place oil the hinges of the existing constitutional machinery and, as I have said above, make its actual working far smoother and more satisfactory than is the case at present ”

Now, Sir, I ask the Honourable the Home Member and every member of the Government, and every Member of this House, whether the Government of India can justly ignore the statement made by Sir Muhammad Shafi. If the Government of India must take note of that statement, is not the report of the majority converted into the report of the minority? My friends opposite may say that that is not a sound rule to lay down, that if a man signed a report while he was in office he must be taken to hold the view which he then expressed, and that no subsequent statement by him should affect the matter. I submit, Sir, that in the present case where the statement of Sir Muhammad Shafi is very clear, the Government are bound to take note of it, and to consider whether in truth the report which they call the majority report should not now be treated as the report of the minority. After Lord Birkenhead had made his great statement, Lord Olivier in concluding his remarks on that statement said

“ It is on that ground that I made my appeal to the noble Earl to take into consideration what I feel convinced is an accurate statement of the feelings of all nationalists and propagandist parties in India in support of the minority report, and whereas the noble Earl said and said truly that the question of what provincial autonomy means has not been explored that is one of the very reasons why I want to see and all who are interested in the development of India want to see the question of

what is to be in the future directly tackled. When such a man as the late Governor of Madras tells us that some parts are ready for provincial autonomy and others are not, I want to see these ideas explored in order to find out whether it is impossible to develop this idea of provincial autonomy."

This is how Lord Olivier concluded his appeal. In view of this appeal of a late Secretary of State for India, of the opinions expressed by the gentlemen who formed the minority, and of the opinion expressed by Sir Muhammad Shafi, I ask the Government of India to consider whether it is not fair to themselves, to the country and to the British Parliament that they should put aside the report of the majority and deal with the minority report as in reality the majority report. I submit that if in the face of this expression of opinion, the Government still insist upon asking this House to lend their support to the report of the majority, they are putting themselves and the House in an unfair position. Can the Honourable the Home Member, can any member of Government ignore the fact that by this subsequent expression of his opinion Sir Muhammad Shafi has supported the report of the minority? And who are the men who composed the minority? Sir Tej Bahadur Sapru who has been honoured and esteemed as one of the best lawyers who ever adorned the office of the Law Member of the Government of India. Sir Sivaswamy Aiyer, who is respected by foe as well as friend for having the courage of his convictions, and for saying only what he believes to be true. Dr Paranjpye, who is also known to be fearless and sincere in expressing the opinions he holds. and last but not least my esteemed friend Mr Jinnah who has all along been trying to co-operate with the Government in the best way he could. These are the men who formed the minority. When such a minority has been strengthened by the opinion of Sir Muhammad Shafi, I ask the Government to consider whether it is not a clear case in which they should withdraw the majority report and not ask this House to lend it its support.

Sir, I come now to another question which was mentioned in the debate by Lord Olivier. For a long time past a great deal has been said by some of our European fellow-subjects about this country not being fit for self-government, for the adoption of self-governing institutions. The first speech I made in the Indian National Congress was, in 1886. I remember very well that in that speech I tried to answer some of this criticism. From that time up to this these arguments have often been repeated—that India is not a nation, that Indians are divided by insuperable differences into opposing communities, that there are communal and religious differences which cannot be got over, and that there is no national feeling among us. These arguments have been repeated *ad nauseam*, and I thought it would be unnecessary in this debate to answer them again. I am sorry that those arguments have been advanced, and I am more sorry that one of the Honourable Members on the Government Benches went a little too far when he said that the Government gave us what we had not a hundred years ago, namely, peace. He should have remembered—and I do not speak with any bitterness. When I say this, I regret the circumstance that he should have referred to it in the way in which he did—he should have remembered that for several thousands of years India knew peace as she does not know at the present day, that in the days of Asoka and of other old Hindu Emperors, India knew peace which is certainly not equalled at the present day. I say this without any desire to take away or derogate anything from the

merits of British rule India knew peace in the days of Akbar and Shah Jahan, which is not unknown to students of history India knows peace to-day in the Indian States where Hindu and Muhammadan rulers rule over a mixed population of Hindus and Mussalmans I submit Sir, it is too late in the day to advance such arguments They do not support the case which those who use them wish to establish They only hurt the feelings of hundreds, of thousands, of millions of our fellow-subjects whom I am certain the speaker would not wish to hurt And I regret to say that in this connection Lord Birkenhead committed a great blunder I do not wish to speak with any discourtesy of his Lordship, but I do not remember that any of his predecessors made such a blunder as Lord Birkenhead made in speaking on this subject His Lordship said

“ To talk of India as an entity is as absurd as to talk of Europe as an entity ”

I wonder if, when he said so, his Lordship had present to his mind a picture of Europe with all its different Governments and peoples warring against each other and of India under a unitary system of government, where all the provincial Governments are merely delegates or agents of the Central Government here He further said

“ The nationalistic spirit which has created most of our difficulties in the last few years is based upon the aspirations and claims of a nationalist India There never has been such a nation in the past. Whether there will be a nation, the future alone could show ”

This is very much like a mistake which a former Secretary of State, a far greater man, Lord Morley, once made in speaking of Indian affairs His Lordship said that if self-government were given to us Indians we would not be able to carry it on for a week He had the good sense and the country to withdraw that remark You will find it deleted from the authorised version of his speech I hope Lord Birkenhead will do the same I am glad to find that Lord Olivier did not overlook this point Speaking after Lord Birkenhead, Lord Olivier said

“ I should like to make one final observation I think that the noble Earl may have a little under estimated, as many people do, the strength of what may be called national feeling and national pride in India and the national disposition to claim that Indians shall have a great deal to say with regard to the framing of their own constitution. It is not enough to say, as the noble Earl has said and as has been said repeatedly, that you have got two great communities in India, that you have many religions, many languages and so on, and that therefore it is idle to speak of India as a nation That is very much less true to-day than it was even ten years ago Whereas ten years ago you might have said that the masses of India cared very little about national religion or about politics, it is, I am perfectly convinced from all that I have been able to learn in the last two or three years, equally unquestionable that this era has passed away, that there is a strong and universal sentimentally nationalist feeling in India upon which the leaders who speak in the name of Indian nationality can count ”

I should be sorry if I had to rely only upon Lord Olivier's opinion, though I esteem it, to support the idea that India is a nation I do not wish to go into a scholastic discussion as to what constitutes a nation A people however divided they may be by religions and creeds, who live in one country, who are the subjects of one sovereign, who are governed by one system of Government, by one set of laws which affect them equally, do constitute a nation in the opinion of every political philosopher who has dealt with the subject And we are such a nation We have long been a nation and shall continue to be a nation despite all the differences that divide us -

Now, Sir, that brings me to another question I really fail to understand what the Honourable the Home Member, or rather the Government, intended or expected when they brought forward the present motion before the House They know the sentiments of the country generally They know that the bulk of the House can not be in favour of the modicum of reforms which the majority of the Committee have suggested They have no doubt done what they considered to be the best in the circumstances of the case I have no quarrel with them They were bound by the terms of reference and they felt that they could not go beyond those terms I have not a word of complaint against their action But I wish the Government realised the position of this House better It contains a large number of the representatives of men who have for many years been earnestly, honestly trying to persuade the Government to grant a much larger measure of reform than they have introduced, and for the Government to expect this House to support the Honourable the Home Member's Resolution, if they did so, was rather expecting too much

And now let us see what is the complaint that is made against the amendment which has been brought before the House In the situation in which we were placed, what were we to do? We could not support the proposal of the Honourable the Home Member We have before us the statement of Lord Birkenhead, supported by the statement of His Excellency the Viceroy that we should suggest a constitution, and that if what we suggest has a fair measure of general agreement among the peoples of India, it would be carefully examined by the Government Could we disregard this invitation? Could we throw away this opportunity? Can anybody reasonably blame us for putting forward at this juncture our ideas, such as they are, of the fundamental principles on which the constitution should be based, for the consideration of the Government? My friend the Honourable the Home Member and the Honourable the Finance Member also seemed somewhat surprised that we had definitely committed ourselves to the model of western institutions I thought they must know that we decided to adopt western institutions long ago, but we have taken care to put in one clause in it, which will make all the difference in the world We have said that the constitution should be framed in the first instance on the recommendation of a conference which will contain representatives of all sections of Indian public opinion, and secondly that it should be framed with due regard to the interests of minorities That is the one great distinction that we have made That is a guarantee that the constitution we shall frame will not be a mere copy of any institution existing in any other part of the world, and that we shall take note of the divergent interests that obtain in this country and will try to meet them But, Sir, so far as the decision to select western institutions is concerned we made it long ago In 1885, that large-hearted Englishman, Allan Octavius Hume, brought about the organisation of the Indian National Congress Since that time we have been holding the Congress year after year Representatives have been elected to it from all parts of India Representatives of all classes and creeds have met year after year We have carried on our deliberations on the most important public questions in a manner which I submit would do credit to any assembly in the world For more than half a century the Government themselves have been training us to value these institutions The British Parliament decided in 1858 that western

representative institutions should be established in India. Since the Indian Councils Act came into operation in 1861, the Government have been regularly training us in the working of those institutions. For forty years we have from time to time asked for changes and reforms in those institutions. We pressed for the introduction of a really representative system of Government in the Congress of 1886, and that great Englishman Charles Bradlaugh came out to India in 1889 to attend the Congress at our request. He introduced a Bill in the House of Commons on the lines we desired, and the Government of the day in England then thought it wise to introduce a Bill of their own which became the Act of 1892. Many years afterwards the Minto-Morley proposals brought in the second instalment of reforms, and lastly came the reforms of 1919. Thus it has been under the direct pressure of the public opinion of India, Hindu, Muhammadan and Christian, that the Government have from time to time reformed the constitution of the Government in India. The constitution as it exists in India to-day is, I am sorry to say, a very bad copy of representative institutions in England and the other countries of the West. But it is to this that we have been invited by the Government to give our co-operation. We have come here to give our co-operation. I am surprised and pained to hear so much said against non-co-operation. Can anybody shut his eyes to the fact that there are so many men sitting in this Assembly who believed in non-co-operation, but who have yet taken the oath of allegiance to His Majesty in order to carry on the work of this Assembly, and who are here day after day to take part in your deliberations? What is it that you find of non-co-operation here? Do you object to a single motion being defeated? Do you object to any particular Bill or Bills being defeated? Can that rightly be described as non-co-operation? I submit not. It is nothing but co-operation. When we come here to take part in the work of the Assembly, we certainly co-operate with you, every one of us. But the attitude of those who adopted the policy of non-co-operation is certainly entitled to some consideration. That attitude of mind is due to the conviction that you do not take us Indians into your confidence, that you do not respect the opinions which we express, and that therefore we cannot heartily co-operate with you. It is for you to win our hearty co-operation. It is for you, as my friend said, to show a change of heart. Most certainly I plead, and plead with all the earnestness I can command, I appeal to every European and Indian to bring about a real change of heart. I pray for myself and I ask my friends to pray that I should myself undergo a little change of heart for the better. I confess myself guilty of having sometimes spoken in a manner which has irritated some of my European friends. I am sorry for it. But let me tell my English friends that ever since I joined the Indian National Congress and ever since I joined the Councils, I have spoken with the same freedom with which an Englishman would speak in the House of Commons. I cannot allow any English fellow-subject to say that I am not free to speak in the Legislature of my country even as he speaks in the House of Commons. I may be wrong in my opinions. I may be mistaken in my views. That must be excused by every reasonable man. But I assure my friends that my intention has never been to hurt or to alienate the feelings of any of my British fellow-subjects. There has been no suggestion throughout this debate that there should be



a separation between England and India, and the talk of peace being disturbed and the horrors of a hundred years back coming back into existence if the reforms we urge are carried out is entirely beside the mark. His Majesty's Government is going to continue. It is going to last for a long time. Our proposals imply that His Majesty will continue to rule over India, that his Government will work with us to ensure the protection of India. All that we are asking for is that, while matters of war and peace should be left to His Majesty's Government to decide as they may think best, that while even questions relating to the strength and the administration of the Army should, by an understanding between the representatives of the people and the Government be placed on a footing satisfactory to Government, in all matters of a domestic character the Government of India should take the representatives of the people into their confidence and be responsible to them. I ask my Honourable friends, the European Members on the Government Benches, I ask them most humbly, most earnestly, to say what would it matter to them, what difference would it make to them if, instead of the three Indian Members who have been selected by the Government of India—I mean no disrespect to them—if instead of the three Indian Members who have been selected by the Government of India, three Members were selected by His Excellency the Viceroy upon a consideration of the fact that they commanded the confidence of the largest body of opinion in this House? What difference would it make to them? Do they expect less co-operation from such Members? I cannot believe it. The whole of our request comes to this that in all matters of a domestic character, in matters which do not affect war and peace, in matters of internal administration, the Government should appoint members who command the confidence of the representatives of the people, and that they should be responsible to the Assembly, instead of the Indian Members who are at present appointed. Of course the rule of responsibility to the Assembly will apply to the European Members also, but that would not prevent the appointment of gentlemen whose knowledge and experience it may be necessary to secure for efficiently carrying on the work of the Government.

Sir, there is another point which the Honourable the Home Member urged against the amendment. It was that the amendment showed that we thought that this Assembly was not sufficiently representative of the people and that it was therefore that we suggested that another body should be created to frame a constitution. If I correctly understood my Honourable friend, he did not correctly appreciate the amendment. What is meant is this. You say that we Indians have differences among ourselves. We know unfortunately to our sorrow that we have. But we want a representative conference to solve these differences. The first thing we want to be assured of is that we are to proceed on a serious business. It is therefore that we ask that there should be a preliminary declaration of policy by Parliament. Unless such a declaration of policy is made or unless there is a preliminary indication that Parliament will be prepared to consider the proposals which we urge, it would be a waste of time for public men to sit at a conference. That explains the first part of the proposition. The second part requests Government to bring together a representative conference, so that they may sit together and discuss and try to meet the requirements of all communities and all minorities and try to come to an understanding. The Government Members are not unaware that in 1916 Hindus and Muhammadans met at Lucknow and came to a pact which Lord Chelmsford and Mr. Montagu

found to be accepted all over the country. Why is it inconceivable that we may again be able to arrive at an understanding which will save the Government a lot of trouble and discussion in the matter of communal differences? That is the reason for desiring a convention or a conference or whatever suitable agency the Government may choose to appoint for the purpose. Our object is that an opportunity should be given to us to try to make the task of Government easier, to suggest proposals which may possibly be acceptable, which we hope will be acceptable.

Then my Honourable friend the Home Member said, "But you say you will not recognise the authority of Parliament." In his own frank and sober manner which disarms much opposition, he seemed to say, 'But you don't want to submit to the authority of Parliament.' I fear that he misunderstood the amendment. Constituted as we are, we must recognize the authority of Parliament. Who denies it? The amendment says that when we have threshed out the matter, when we have prepared a scheme, it should be submitted to this Assembly, and after it has been improved by discussions in this Assembly it should be submitted to Parliament. Do we not in saying so bow to the authority of Parliament? Do we not acknowledge the authority of Parliament? If we did not, where would be the necessity of the amendment? My Honourable friend the Home Member knows and every other Member knows that in other cases too that has been the procedure. In the case of the South African constitution, for instance, the whole constitution was prepared by the representatives of the South African people, and then submitted to Parliament. We do not ask for anything more. We know that as we stand, we are subject to the authority of Parliament. There is no desire to ignore that authority. We are fully conscious of the authority of Parliament. And what is more, let me say frankly and in absolute truth, that there is no desire in us at present to get entirely away from the authority of Parliament. We wish to continue to be subject to the authority of Parliament in certain matters. That is the clear meaning of the amendment. The amendment does not ask for full responsible government, it asks for a measure of responsible government subject to limitations, which means that we are willing to continue within the limitations to be subject to the authority of Parliament and of the Secretary of State. How long that time will be will depend upon the action of my British fellow-subjects and ourselves. I hope God will guide us both in such a manner that we may continue to be united for a long time to come to the advantage of both countries, but that must be by an agreement which will be both honourable and profitable to India, as it will be honourable and profitable to England. That is the position. I submit that if the amendment is regarded in that light, it need not frighten anybody, much less should it excite any angry criticism. The amendment is presented as embodying the fundamental principles which it seems to us should find a place in the next Statute of Parliament, which will amend the Government of India Act. We do not say that they should not be considered before being placed on the Statute-book. Let them first be considered by the Cabinet in England. Let them then be considered by a round table conference or a convention or a Royal Commission or whatever suitable agency the Government may like. My Honourable friend the Home Member thought that we suggest that the big changes we ask for should be introduced without any inquiry by a Royal Commission. We did nothing of the kind.

**The Honourable Sir Alexander Muddiman** Is there any mention in the amendment of a Royal Commission ? Has any speaker ever referred to it before ?

**Pandit Madan Mohan Malaviya** : What then is the meaning of the words " or any other suitable agency " ? Do they or do they not cover a Royal Commission ?

**The Honourable Sir Alexander Muddiman** . I doubt if they do

**Pandit Madan Mohan Malaviya** I regret I do not agree I submit that that expression does include a Royal Commission also My Honourable friends on the Government Benches are very anxious that we should co-operate with them and understand them I beg of them to try and understand us also If they will do so, I am certain that they will not say that the words " or any other suitable agency " exclude a Royal Commission Let the matter be investigated and inquired into by a Royal Commission But let it be a Commission which should include trusted representatives of the people of India of all important shades of public opinion, a Commission which should command the confidence and call forth the gratitude of all sections of the people of this country towards the Government The amendment only endeavours to take the next step which in the situation created by Lord Birkenhead's speech and His Excellency the Viceroy's speech is called for We could not do anything else We do not mean that all the commas, all the semi-colons and all the full stops should remain as they have been put down After the Honourable Sir Charles Innes expressed his opinions in the manner he did, it was not surprising that Pandit Motilal Nehru should have said what he did say He might even now repeat it, but we do not mean that all the commas, semi-colons and full-stops must necessarily stay (Laughter) Let us come to the stage when the commas, the semi-colons and the full-stops will have to be considered I request my Honourable friends opposite to look to the substance of the thing, to the substance of what the amendment seeks to indicate, and try to understand us and to help us I appeal to every friend, official and non-official particularly to every European friend, to try to understand us Do not regard us as opponents Do not think that we have come here merely for the pleasure of opposing you There is no pleasure in doing so Believe me, and I speak for many others here, believe me, it is an overpowering sense of duty that brings us here We wish to understand you, and we beg you also to try to understand us The days have gone by when India could be satisfied with the existing system of Government You say yourself, the Honourable the Home Member has himself said, that dyarchy cannot be said to have succeeded, and that it cannot be said to have failed That is the verdict expressed by many officials If dyarchy cannot be said to have succeeded, it should be given a decent burial Many officials, many gentlemen who were examined, have said so Therefore, do not let us waste any more time in trying to keep up that which cannot be justified Let us consider what the next step should be Towards that end, this amendment makes a carefully considered suggestion, and I hope the suggestion will yet commend itself to the Government (Loud Applause)

*Several Honourable Members* I move that the question be now put

**Mr President** The question is that the question be now put

The motion was adopted

The Honourable Sir Alexander Muddiman : Sir, I should not have again addressed the House at any length but for the speech which has just been delivered. That speech at the end of the long debate extending over two days gives me an entirely different view of an amendment, which to me has been always somewhat difficult to understand from the first. The gloss that the Honourable the Pandit proposes to put on this amendment gives a meaning entirely different from what I had gathered from the whole debate. A new point has been raised at a quarter past six in the evening and has been developed to ten minutes to seven. Sir I do not know whether the Honourable Mover of this amendment accepts this gloss or whether the interpretation of the Honourable Pandit who is always desirous of putting a reasonable interpretation on all things is accepted by the Honourable Mover. But I must confess that it would not have occurred to me that any one would recommend a statutory Commission or a Royal Commission subsequent to a declaration of Parliament on an important matter of policy. One would have thought that would proceed not follow such a declaration. Further I should not have thought that a Royal Commission could have been constituted in consultation with the Legislative Assembly. I should not have thought that in a considered amendment such a commission would have been referred to as a round table conference or other suitable agency. I should have doubted whether the rules of *ejusdem generis* would have applied. I should not have thought a Royal Commission would have been in the nature of a round table conference, nor should I have thought that "Indians, Europeans and Anglo Indians" would have been summoned on a Royal Commission to frame with due regard to the interests of minorities a detailed scheme. I should have thought that a Royal Commission would have been wanted to settle the principles which are mentioned very definitely and very firmly in the first part of the amendment put down by any Honourable friend. I am still in rather a difficulty in knowing what is intended and as far as I can see gentlemen of very different opinions will go into the same lobby and vote for a Resolution which apparently means different things to different people.

**Mr C S Ranga Iyer** Why don't you give labour votes ?

**The Honourable Sir Alexander Muddiman.** If the Honourable Member will allow me to proceed with my speech, the House will be in a position to come to a decision earlier. Now, there was a much more important statement made by Mr Joshi. He said that the European servants, by which, I understand, he referred to the servants of His Majesty the King, were the servants of European capitalists. Now that statement was either made rashly or it was made deliberately. If it was made deliberately, it is not, I regret to say, based on fact. There is hardly any Member of this House who would not be prepared to agree that during the administration of India by the King's servants, the exploitation of India has been very largely prevented by the presence of English servants of the Crown. (Hear, hear, and cries of "Oh", and "Question") You say "Question", but it is true.

The next remark I have to make is with reference to the point taken by the Honourable Pandit in regard to Sir Muhammad Shafi's opinion or change of opinion. Sir, I do not propose to say much on that. I am concerned with his opinion as far as it appears in the report. Sir Muhammad Shafi was my colleague. He is now a private individual and he is in that capacity in a position to defend or justify any action he has taken in the matter if such defence or justification is necessary. I do not propose to refer to that further.

Now, Sir, the debate has run to great length and I note with gratification that the tone of the speeches has been on the whole very moderate. There has been a desire, an earnest desire, expressed from many quarters for co-operation. We have been called upon to co-operate, you have been called upon to co-operate, and that is the note on which I would wish to end the debate. I do not doubt the House will proceed to pass the amendment. Too many people have spoken on the subject for me to entertain any hope that any words of mine will deter them from following that course. But, Sir, I cannot help feeling this House may yet perhaps regret that course. I leave that. At any rate the House has had a very full and a very lengthy debate on this report. Such a debate was promised by the Government and that pledge, I think the House will agree, has been amply redeemed.

Now, I do not wish you to think that we like ploughing the sand any more than you do. It is, I think, under the existing constitution a legitimate ambition for those of my service to attain to the post that I now hold and to which others of my colleagues similarly have attained. It is perhaps the one occasion after a long service when one has hopes of bringing forward long cherished schemes and possibly of righting some of the wrongs that one has experienced in one's long career. It is no pleasure to bring forward proposals which we feel are not considered on their merits but are turned down because they emanate from our Benches. Now, as the Honourable Pandit pointed out, co-operation does not mean that you should support every Bill, every Resolution, that is brought forward. Sir, no one has ever suggested that that is co-operation. What I do consider co-operation is that the Bills or Resolutions or whatever they may be should be decided on their merits and not set down with a black mark because they emanate from the Benches on which I sit,

Diwan Bahadur T. Rangachariar : We have been doing so all along.

The Honourable Sir Alexander Muddiman : Would the Honourable Member place his hand on his heart and say that.

Diwan Bahadur T. Rangachariar : I do.

The Honourable Sir Alexander Muddiman : The gesture comes too often.

Sir Alexander Muddiman : And the Hon. Member to proceed to a decision on the present matter. I will not detain the House one moment longer from that decision. I can only hope that the decision that it may come to may

respect of the control of Military, Foreign and Political affairs for a fixed term of years

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as 'Defence' shall be submitted to the vote of the Legislature, but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed

(g) The present system of dyarchy in the Provinces shall be abolished and replaced by unitary and autonomous responsible Governments subject to the general control and residuary powers of the Central Government in inter provincial and all India matters

(h) The Indian Legislature shall after the expiry of the fixed term of years referred to in clauses (b) and (f) have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable

This Assembly further recommends to the Governor General in Council that necessary steps be taken

(a) to constitute in consultation with the Legislative Assembly a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf,

(b) to place the said scheme for approval before the Legislative Assembly and submit the same to the British Parliament to be embodied in a Statute ' "

The question I have to put is that that amendment be made

The motion was adopted by 72 votes against 45

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Thursday 17th September 1925

# RESOLUTION RE APPOINTMENT OF STANDING COMMITTEES TO DEAL WITH BILLS RELATING TO HINDU AND MUHAM- MADAN LAW

The Honourable Sir Alexander Muddiman (Home Member)  
Sir, I beg to move the Resolution which stands in my name on the paper  
With your permission, Sir, and with the permission of the House I will  
take it as read -

" This Assembly recommends to the Governor General in Council that in order to  
give effect to the recommendation in paragraph 120 of the Report of the Reforms  
Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House  
be amended so as to provide as follows

- (a) two Standing Committees, one to deal with Bills relating to Hindu Law and  
the other with Bills relating to Muhammadan Law, shall be appointed
- (b) appointments to these Committees shall be made by a Committee of Selection  
the members of which shall be appointed at one of the first meetings of  
the Assembly to be held in each year and should hold office for one year  
from the date of nomination
- (c) the Committee of Selection shall consist of the President, the Deputy  
President and the Leader of the House supplemented up to a total number  
of 12 Members on a motion moved by the Leader of the House so as to  
represent the main divisions of opinion in this House
- (d) the Standing Committee for Bills relating to Hindu Law shall consist  
of the Honourable the Home Member, the Honourable the Law Member,  
if they are Members of the Assembly, and 30 Hindu Members nominated  
by the Committee of Selection so as to include persons well versed in  
Hindu Law and representatives both of the orthodox and reforming sections  
of the Hindu Community
- (e) the constitution of the Standing Committee for Muhammadan Law shall be  
similar to that of the Committee on Hindu Law except for the substitution  
of 20 Muhammadan Members for the 30 Hindu Members
- (f) the Members of each Standing Committee shall hold office for one year but  
may be re-nominated by the Committee of Selection in successive years
- (g) a Bill which has been referred to the Standing or a Special Select Committee  
in one House shall not be referred to the Standing Committee or a Special  
Select Committee in the other House
- (h) as soon as leave is given to introduce a Bill other than a Government Bill  
and, subject to paragraph (g), as soon as a Bill other than a Government  
Bill which has been passed by the other House is laid on the table of  
this House, if the Bill is certified by the President to relate to Hindu  
or Muhammadan Law, it shall be referred to the Standing Committee  
concerned without further motion
- (i) the Standing Committee shall have power to examine witnesses and to  
circulate a Bill, but when it directs circulation the fact shall be reported  
to the Assembly
- (j) the further procedure in the Assembly after the report of the Standing  
Committee is received shall be the same as the procedure on receipt of  
the report of a Select Committee "

Diwan Bahadur M. Ramachandra Rao (Godavari cum Kistna  
Non-Muhammadan Rural) Sir, I beg to move

" That the consideration of this Resolution be adjourned till the beginning of the  
next Session."



It seems to me, Sir, that this Resolution

**The Honourable Sir Alexander Muddiman** Let the Honourable Member hear my speech before he makes that motion. I shall not detain the House very long, I can assure him. Sir, this is a Resolution which arises out of paragraph 120 of the report of the Reforms Inquiry Committee. My object in bringing it before the House is merely to elicit the opinion of the House on it. Paragraph 120 of the Report of the Reforms Inquiry Committee pointed out the undoubted anxiety that was felt in many quarters regarding legislation affecting the social rights of the various and numerous communities in this country. We had particularly memoranda both from Hindus and Mussalmans, and in this connection I would refer the House to paragraphs 40 and 41 of the Report. Amongst other proposals that were brought forward, we were supplied with a very interesting note by a former Member of this House, Mr. Jogendra Nath Mukherjee, and the proposals in my Resolution very generally follow the lines suggested therein. As I understand my Honourable friend is about to ask the House to postpone consideration of this Resolution, I will not take the House further into the merits. I will merely say, that this Resolution has been on the paper for a long time. The House has had ample notice of it.

**Mr. A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) No time.

**The Honourable Sir Alexander Muddiman** and, as far as I know, only two very small amendments have been put down on the paper. Therefore, I did not personally expect a motion of that kind. However, I will hear what my Honourable friend has got to say.

**Diwan Bahadur M. Ramachandra Rao** Sir, I beg to move

“ That the consideration of this Resolution be adjourned to some day next Session ”

It is true, Sir, that this Resolution has been on the agenda for a little time, but I think this is one of those matters which require very careful consideration as it introduces a new procedure in regard to non-official Bills relating to both Hindu and Muhammadan law. I think the Honourable the Home Member is anxious himself that he should receive the considered opinion of this House in regard to this very important matter. I do not wish to take up the time of the House by criticising any of the clauses at this stage, and I trust that the Honourable Member will consent to have this matter put off as I suggest. It seems to me, Sir, that even if this Resolution is carried, nothing can be done to bring about the new procedure and the new Standing Committee as suggested in this Resolution until the beginning of the next Session. In these circumstances, Sir, I trust the Honourable Member will consent to my suggestion.

**Mr. M. S. Aney** (Berar Representative) Sir, I rise to oppose the amendment which my Honourable friend Diwan Bahadur Ramachandra Rao has moved. He wants the consideration of this question to be adjourned. I do not think he has advanced any very cogent reasons for this. The motion has been before the House for some time. To me, it seems to me that the consideration which he has in mind is what the minority has

written about this recommendation. It has been written in the minority report that this question has not been sufficiently considered and therefore, they have not subscribed to the recommendation of the majority on this point. I feel, Sir, having carefully gone through the volumes of evidence recorded by the Committee that the question has been categorically brought to the notice of the Committee in the two important memoranda submitted to that Committee by the *Hindu Mahasabha* and *Sri Bharat Dharma Mahamandal* and there was also a Resolution of the Moslem League. I also find in the volume of evidence that Mr Barkat Ali has been more than sufficiently cross-examined on that point by the Committee. So, with that material before the Committee it could not be reasonably said that the question was not sufficiently considered by the Committee, and therefore, I submit that the minority was not justified in making any observation to the effect that the question has not been properly considered and sufficient materials have not been placed before them. There should have been no recommendation to that effect. The question is one which is before the public of this country for years together. Those who have subscribed to the Congress-League Pact of Lucknow know that with regard to matters of this kind the necessity of some sort of safeguard has been keenly felt. Therefore, when the question is now being brought for consideration before the House by the Honourable the Home Member I do not think that he has taken the House by surprise. He is only asking you to give your deliberate verdict upon a question that has been before the country for years together. Honourable Members will see in the list of Resolutions that have been admitted by the Honourable the President on the 24th August 1925 there is a Resolution of which I gave notice and which runs as follows

“ This Assembly recommends to the Governor General in Council to accept and take all necessary steps to give effect to the recommendations in paragraph 120 of the majority report of the Reforms Inquiry Committee proposing additional safeguards on legislation affecting the religion, religious rites and usages of the Hindus and Muhammadans, as well as any questions affecting the Hindu and Muhammadan law ”

country that there is no likelihood of their inherent rights being jeopardised by any action of the Legislature when it may be turned into a responsible Legislature. It is necessary for us to create that sort of atmosphere in the country and I believe we shall not be doing justice to our cause by postponing the consideration of this question at a time like this. I do not wish to speak further on that point, at this stage, but I think we shall not be acting wisely by adjourning the consideration of this question. I therefore oppose the amendment and support the motion which has been put forward before the House by the Honourable the Home Member.

**The Honourable Sir Alexander Muddiman** Sir, I am not going to delay the House on the question of the motion that the debate be adjourned. I place myself in the hands of the House and shall accept its decision.

**Mr President** The original question was

“ That the Resolution\* moved by the Honourable the Home Member be accepted ”

Since which an amendment has been moved

“ That the consideration of this Resolution be adjourned to some day next Session ”

The question that I have to put is that that amendment be made

The motion was adopted

### RESOLUTION *RE* FRANCHISE FOR WOMEN

**The Honourable Sir Alexander Muddiman** (Home Member) Sir, I beg to move the following Resolution

“ That this Assembly recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos 8 and 9 in the majority report of the Reforms Inquiry Committee ”

Those recommendations are contained in paragraphs 66 and 67 of the Reforms Inquiry Committee report. They deal with the question of woman franchise and the disabilities of women to be members of the Legislature. I need not tell the House that in the Government of India Act there is no statutory disqualification of women. The question of women as voters was deliberately left by the Joint Committee to the Local Governments themselves in the first place, and left to the Assembly. Though a Resolution was passed by the Assembly in favour of woman franchise it does not operate in any province unless that province has voted in favour of the franchise either before or after the Assembly Resolution. This is in regards the voting by women. I understand that Madras, Bombay, the United Provinces, and Bengal have removed the bar on women voting. In Burma women have the right to vote but no Resolution has been passed allowing them to stand as candidates. Election and nomination stand on the same basis—they are dealt with by rule 7 and rule 22, I think it is, of the Rules. Rule 22 is the rule dealing with nominations, and rule 7 is the rule regarding the right to elect. The disqualifications in regard to being elected are contained in rule 5. At present there is no provision in rule 5 which allows the sex disqualification to be removed even after a Resolution by the Legislature. What this Resolution proposes to do is to amend rule 5 on the lines of rule 7. It will require the same Resolutions to be passed and similar

12 Noon

notices to be given as are required now in the case of an amendment giving the franchise to women

There is one other matter that is dealt with in the recommendations, that is, in regard to the bar against women being registered as electors of the Delhi and Ajmer-Merwara constituencies. The Resolution therefore—I think I have made it clear to the House—places before the House the question of the grant of the franchise to women in Ajmer-Merwara, and the House also, if it accepted this Resolution, would be committing itself to what might perhaps be considered the possibly serious problem of “ lady Members ”. It would be recommending to the Government that powers should be provided enabling the Legislatures to bring this about by an analogous procedure to that by which the franchise can be conferred on women. I merely bring this Resolution in order that we may have the opinion of the House on the matter. I think, Sir, that is all I need say at present.

**Mr A Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, I should like to know from the Honourable the Home Member what the effect of passing this Resolution will be in the first instance—whether by reason of passing this Resolution it would *ipso facto* become possible for women, or whether this House should proceed to pass another Resolution to enable women, to stand as candidates under the existing rules. That is one thing I wanted to know. The other thing that I want to state is that, so far as the Party to which we belong is concerned, we have been in favour of women franchise, we have been in favour of women being qualified to represent electors in this country, since the time when the reforms were demanded and were introduced, so that so far as the principle and this particular proposal are concerned, we have been committed to it all these years, and there is therefore no question of opposing this reform, which ought to have been introduced long, long ago. But we desire, Sir, to be understood that in passing this motion and in allowing our ladies to have their right to vote and to represent us, we do not by any means accede to the proposition that we are here prepared to take steps to carry out the recommendations of the majority report of the Reforms Enquiry Committee—(Laughter)—and therefore, Sir, with that statement of our position, I say, Sir, that we are entirely in favour of the motion.

**Mr B Das** (Orissa Division Non-Muhammadan) Sir, I rise to give my cordial support to the Resolution which the Honourable the Home Member has moved. Sir, we get very small mercies from the Home Member in matters of Reforms Legislation. However small the mercy is that has come in the way of women, I welcome the proposition.

**Mr K. Ahmed** You will not be returned next time.

**Mr President** Order, order.

**Mr B Das** This House, Sir, and every other Legislature will welcome the advent of women into the Legislature, and it is for no other reason than that of the opposition in certain quarters in this House to every piece of social legislation, every measure that is introduced for the welfare of women and children in this House. We have seen how opposition in certain quarters was aroused against the social legislation which was introduced by my Honourable friend, Sir Hari Singh Gour, and also when the Honourable the Home Member introduced similar legislation of a modest

scope We have seen how a certain section of this House opposed it Had there been some representatives of the women of India in this House, we would have had the view point of women as regards this legislation before us, and they would have shown that man-made laws are not always conducive to the interests of women and that women have got their own views in matters of legislation Sir, almost all the difficulties that the women of the West have had to go through in the matter of their franchise has disappeared and I need not dilate upon them here Since the conception of manhood and womanhood in the West—(Laughter)—the people in the West thought that all the mistakes were committed by woman and that it was Adam that was tempted by Eve (Laughter) Sir, that is not the conception of the East In the East, woman has got equal status with man, and in India, we Indians have always allowed women equal status in our homes, in our social life and in our political life In India at present there is Her Highness the Begum of Bhopal, whose rule is as beneficent as the rule of Queen Victoria of revered memory, ruling over a large territory There are two or three Maharani-Regents—in Travancore and I think also in Gwalior, and I believe that whenever women came to rule over any territory, whenever women brought their influence to bear upon social or public life, they have infused a great degree of compassionate feeling into our lives, they have brought justice tempered with compassion But we have found that whenever man has legislated for woman, he has always been hard on woman (Hear, hear) The other day in another place an eminent speaker (Sir Frederick Whyte) said that the time will soon come when my friend, Pandit Shamlal Nehru, will be replaced by a very competent lady who happens to be his own spouse I hope, Sir, the time will come when we will have ladies like Mrs Sarojini Naidu and Mrs Uma Nehru here, assisting us in the legislation of this country I do not want ladies, Sir, to take part in platitudes of politics, but I want them to participate in social legislation affecting the women who form half the population of India and the millions of children whose interests are not properly looked after by the legislation made by hard-hearted man It is women that must influence us in this social legislation, and also in legislation for women—women who are being sweated and overworked in the factories of Bombay and Calcutta and in the tea gardens of Assam The other day, Sir, we remember that when my friend, Mr Joshi, introduced his Maternity Benefit Bill in this House, this House threw it out Sir, we, being men, did not understand the woman's viewpoint and woman's troubles, and had there been women in this House, they would have placed their view in the matter of that Bill before us Well, I began by saying that I thank the Honourable the Home Member for the small mercy that he has shown to us, and, accepting the little mercy that he has shown in the matter, I welcome the proposition Sir, I have got one doubt Going through the speeches that were delivered in the Council of State, I do not find it mentioned that women will be eligible for election to the Council of State I may be incorrect, I have not properly understood the speeches, but I hope the Home Member will make it clear that women will be eligible for election to this House as well as to the Council of State Another point is this Why should Resolutions be passed in the local Councils for giving votes to women or the right of election to women? Why should not the Central Legislature pass legislation and give votes to all the women in India so that they may be eligible for election and for voting for the local Councils as well as for the Central Legislature, including the Council of State? Although some of us do not

want the existence of that House, yet, so long as that House exists, let women be there to moderate their judgment. The presence of women in that House will bring a little bit more of sense in the legislation of that House and it will be better for the country and they will legislate better.

**Khan Bahadur Sarfaraz Hussain Khan** (Patna and Chota Nagpur *cum* Orissa Muhammadan) Sir, I congratulate the Honourable the Home Member for having brought up this Resolution before this House for consideration, though it is rather late. What is the Resolution? (Laughter) I quite support the Resolution, and it is now too late in the day to discuss what the proper sphere of woman is, as it has been recognised throughout the civilised world that women, simply because of their sex, are not inferior to men. It will only be a social tyranny if women are not allowed to vote or to stand for the Councils, and so the Resolution which has been moved quite meets the requirements. I do not know much of the Hindu social custom or the Hindu law. But so far as I have read I can say that in the Hindu religion no sacrifice is valid unless the man has his wife with him to participate in the religious function, and I think the wife participates in all religious functions. Such is the case. Even under the present law, women are allowed to manage their own affairs. I do not know much about Hindu law, but according to Muhammadan law, women have their share in the property, they manage their landed properties sometimes themselves, and sometimes by giving a power of attorney to their husbands or servants, they thus manage the whole thing themselves. They manage their own household affairs. They pay taxes and I do not understand how by merely exercising their vote or getting themselves elected to councils they would not be able to do their work properly, as they do in their own houses. There may be some people who think that women are uneducated and not quite fit to exercise the franchise in India. I shall be much surprised if I hear that argument. The Begum of Bhopal and Mrs Sarojini Naidu are examples. Almost all the Congress Committees have recommended Mrs Sarojini Naidu for the Presidentship of the Congress, which is the highest honour which it is in the power of Indians to confer on any man or woman. At the present time almost all the Congress Committees have elected her to be the President of the Congress, and nothing could be better and more appropriate at this stage than to acknowledge the rights of women here in this House. That is so far as the Resolution goes. Now, my amendment is simply this

**Mr H Tonkinson** On a point of order, Sir, I should like to ask for your ruling as to whether the amendment standing in the name of my Honourable friend is in order.

**Khan Bahadur Sarfaraz Hussain Khan** I could not hear the Honourable Member.

**Mr N M Joshi** He has asked for a ruling as to whether your amendment is in order or not.

**Mr President** Order, order. Mr Tonkinson.

**Mr H Tonkinson** Sir, I submit for your ruling that the amendment standing in the name of my Honourable friend is quite outside the scope of the Resolution which is before us.

**Mr K. Ahmed** The Honourable Member from Bihar has made his remarks on the question in general. I suppose he is coming to *pardah* ladies and will ask the Honourable the Home Member to set apart a portion of this Assembly Chamber for them here Sir, let us have some views of his own on the subject from the experience of the old gentleman of this country

**Mr President** There can be no doubt that the question raised by the amendment has nothing to do with the subject matter of the Resolution The question of special facilities for women voters is a question to be settled by rules and is not dealt with in the recommendations Nos 8 and 9 of the majority report, with which we are at present concerned The amendment of the Honourable Member is therefore outside the scope of this Resolution

**Khan Bahadur Sarfaraz Hussain Khan** May I proceed? (An Honourable Member "The amendment is outside the scope of the Resolution") Very well, I do not move the amendment, that is all I would ask the House to accept the Resolution unanimously I want to tell the House that India is not behindhand in respect of the capability of women That is all I have got to say and nothing more I support the Resolution

**Mr M K Acharya** (South Arcot *cum* Chingleput Non-Muhamadan Rural) Sir, I do not know if the small amendment of which I gave notice is

**Mr President** The Honourable Member will understand that it is also outside the scope of the Resolution

(Mr M K Acharya did not resume his seat)

The Honourable Member must know that he has to resume his seat when the President rises (The Honourable Member then resumed his seat) The Honourable Member's amendment is outside the scope of the Resolution He can speak on the general question

**Mr M. K Acharya** I thank you, Sir, for your kind ruling I presume my amendment was out of order I shall make a few general remarks upon the motion before the House I want to preface my remarks by just this one statement, rather one explanation, that I would like to be judged by some of my friends opposite by what I say rather than by what I may appear to be in their eyes We have already listened to more than one attack, very undeserved attack, on orthodoxy, or upon supposed orthodoxy, from both Sir Hari Singh Gour and my friend Mr B Das But to come to the motion before us one or two things struck me when reading this motion about woman franchise as part of the recommendations of the majority report of the Muddiman Committee. Thus I thought it was given out, Sir, that that Committee was appointed for some very grand purpose to investigate into the way in which the reforms are worked, to find out the inherent defects of dyarchy, and to suggest ways and means for removing those defects, and so on and so forth I am wondering whether, as a result of these mighty investigations, we are now having once more an example of what the old adage says of a mountain being in labour and bringing forth an insignificant mouse I wonder whether the giving of the vote to a number of ladies in this land or, for the matter of that, having a number of lady Members in the various Legislatures, would remove the defects inherent in dyarchy, whether 20 additional lady

Members in Bengal or the Central Provinces would have avoided the creation of a deadlock there. I likewise wonder whether, if to my own uncouth voice the very plaintive tone of some lady Member were added in support of the unfortunate railway employees, the Honourable Sir Charles Innes and the Honourable Mr. Sim would give a more favourable and more sympathetic hearing. However, I shall presume that such will be the case hereafter. No ?—I see that Mr. Sim is shaking his head ! So if I had any hopes that at least when advocated by the fair sex, the cause would prevail of the Railway subordinates I seem to be warned that I am mistaken. Be that as it may, Sir, and very orthodox as I am supposed to be, and very uncouthly bearded as I perhaps am,—(Laughter)—I am still chivalrous enough to appreciate the Resolution brought by the gallant Leader of the House. I have cultivated a sufficient love of what is beautiful in nature and in art. (Laughter) In the old days, before the non-co-operation movement came in, when I had not given up studying for spinning, I had read plenty of books on what are called the Rights of women. And I certainly remember the famous lines of the poet

“ Woman's cause is man's, they fall or rise  
Together, dwarfed or god like, bond or free ”

I suppose these are the lines. So that I am not altogether ignorant of the great part played by the fairer and, I am ready to confess, the better sex in the moulding of the world's destinies. I am certainly not standing in this House to oppose the motion before us. I really wanted to plead on behalf of the women, and that was the object of my amendment which you, Sir, have ruled out of order. Therefore I will not move my amendment. My view is that women should not be subjected to all the hardships such as we men have to undergo by going from village to village, *taluk* to *taluk* and place to place canvassing in an electorate consisting of 20,000 or 30,000 voters. I would like to say, when the time comes for any of my sisters to be present in this House, that the rules that would be made then should provide for their coming to this House in a much easier way. For the rest I have absolutely nothing to say against the Resolution. It would certainly be very much more artistic and more varied to have both gentlemen and ladies sitting in this House, I dare say it will be very pleasant if to our masculine sports here we have some feminine pastimes added. Therefore, I welcome on its own merits the suggestion made, I am not at all up for opposing it. For once, I shall disappoint my friends on the opposite side of the House—the so-called champions of women's freedom and women's rights and so on, I shall disappoint them by lending my own very orthodox support to the measure before the House. Indeed, Sir, according to orthodox Hinduisms also even the male Deity is in some respects subordinate to the female Deity

“ *Shivas haktya yukto yad bhavati shakti prabhavitum* ”

“ Shiva united with Shakti alone is capable of becoming the Lord of Creation ”

Be that as it may, I wish to lend in my very, very humble way, my warm support. Let those people, who talk so much of women's franchise and all that, know that we, old people also, have great love, great regard and great reverence for women. And I, for one, certainly think that, in deciding the great problems that will affect the future progress and destiny of this land, women's wisdom will be quite as precious as, indeed



more precious than, the talents of my most talented friends on the heterodox side of the House

**The Honourable Sir Alexander Muddiman.** Sir, I have only a few words to say. In the first place, it seems to me that there has been a slight misunderstanding as to the effect of the Resolution. It is possible that some Members may be considering the question of an election (Laughter) If so, I should like to make it quite clear that this Resolution is merely a recommendation to the Governor General in Council to amend the rules and will therefore not operate till those rules are amended. I wanted to make that point clear.

Some of the Honourable Members asked me as to the rules regarding the Council of State. The rules are the same *mutatis mutandis*. It was I think Mr B Das who suggested that the Council of State was backward in gallantry. I may inform him that the Council of State has already passed a Resolution similar to that before the House. My Honourable friend Mr Acharya felt bound to reflect on the tiny mouse that the majority report has produced. All the same, he seemed to welcome it, once he had indulged in the necessary depreciation of anything from these Benches. I am sure he will find it is quite a big mouse. I really must congratulate him and also Mr Rangaswami Iyengar on their ungrudging and enthusiastic welcome to this Resolution.

**Mr President.** The question is

“ That this Assembly recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos 8 and 9 in the majority report of the Reforms Inquiry Committee ”

The motion was adopted.

Wednesday, 16th September 1925

# RESOLUTION RE AMENDMENT OF THE RULES FOR ELECTION TO THE INDIAN AND PROVINCIAL LEGISLATURES

Pandit Shamlal Nehru (Meerut Division Non-Muhammadan Rural) (The Honourable Member was greeted with applause on rising to address the House) Sir, the question of disqualification

Mr President The Honourable Member must begin by reading his Resolution

Pandit Shamlal Nehru I thought, Sir, that I had moved the Resolution formally the other day, but I will do it again to-day The Resolution, which I have already moved, Sir, runs as follows

" This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for election to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting "

Sir, the notice of this Resolution was given early last year After the notice was given, this question was referred by the Government of India to the Parliamentary Joint Committee (Mr K Ahmed " How do you know ? ") I know that because I have read their report (Laughter) I do not know whether it was on account of this Resolution that the Government of India referred the subject to the Parliamentary Joint Committee Perhaps it was that, or perhaps (I would like to give the Government credit for it) it was due to their thinking that an offence should not carry more than one penalty This question was taken up by the Parliamentary Joint Committee, and it was discussed at several meetings for over a month It was resolved by the Committee to invite the Secretary of State for India to give them the reasons for the amendment proposed by the Government of India At the second meeting at which the Secretary of State was present he made a statement as to the necessity for the proposed amendments After deliberation it was moved by the Earl of Middleton

" That the Committee do not recommend the Secretary of State to make the proposed amendments to the qualifications for candidature for Indian Legislative bodies "

The same was objected to and votes were taken Votes for the Resolution were 4 and against the Resolution of not recommending were 11

The proposed motion was disagreed to Then another motion was made by Mr Wardlaw Milne

" That the Committee accept the view of the Government of India as to the necessity for the amendment, but suggest that, if the Government fear the continuance of persistent demands on the part of persons convicted, the period of disqualification should be reduced from five to two years "

This also was objected to The contents were 5 and the non-contents were 10 Then it was moved by Lord Clwyd

" That the Committee shall advise the Secretary of State for India to adopt the proposal of the Government of India to amend the Rules made under the Government of India Act, 1919, so as to remove the disqualification for five years which the rules at present impose upon any person ' against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting "

This was also objected to

of India According to English law there is only one penalty for one offence, and even a murderer there is qualified to stand for the Legislature I do not think any criminals, real criminals I mean, were allowed by the public to get any votes at all in England and the same thing, I am sure, will happen in India if a real dacoit or a real thief stands for election here (*An Honourable Member* "Why are you here?") I am here because Government failed and could not help my getting in Now, Sir, in England where they have got a representative Government people who go to jail deserve the punishment In India thousands and thousands of people who, if they had their own Government would have been honoured for their patriotism, have been sent to jail and declared convicts and declared unfit for any work for the good of their country through the Legislature In England, Sir, if an offence is punishable with a 10-shilling fine, in India the same offence means six months' rigorous imprisonment or perhaps a year In India, Sir, people go to jail for offences for patriotism and sometimes for displeasing some powerful people In 1920-21 Sir, as we all know, about 30,000 people went to jail voluntarily By voluntarily I do not mean to say that they went and locked themselves up in the jail, but they took no objection to their being sent to jail There were about 30,000 of them, of whom Mr Gandhi was one Of these people, Sir, nearly every one was no offender against any law, real law, not a lawless law Cases were tried in courts, punishments were given right up to 5 years rigorous imprisonment, for "offences" which in a self-governing country will be considered patriotism and rewarded accordingly In 1921, Sir, many people, high and low, the favourites of the people of the country were sent to jail on manufactured evidence Take the case of my Honourable Leader who happens to be my uncle also (Laughter) or my Honourable uncle who happens to be my leader, whichever way you like to have it (Applause) He was arrested at 5 o'clock, taken to jail and the next morning tried by the Magistrate He refused to answer questions His signature, or his so-called signature, on a paper had to be proved before a conviction could be obtained The paper was there all right, but somebody had to prove the signature because he had refused to answer questions A person was forthcoming immediately who said that he had served Pandit Motilal Nehru for a large number of years as his servant and who knew his signature in Hindi well Now, Sir, Pandit Motilal Nehru had never seen that man's face before, nor had I for the matter of that (*An Honourable Member* "Why did you not disprove it?") I do not think he has ever signed his name in Hindi But all the same he got six months' simple imprisonment and Rs 500 fine This is how convictions are manufactured in India There is another case of my cousin Pandit Jawaharlal Nehru He heard of the firing in Jaito He went there No objection was taken to it He went to the city and met the Superintendent of Police on the roadside The Superintendent of Police seeing there was a foreigner asked his name His name was well known to the Superintendent He asked him as a special favour to wait where he was, until he went and saw the Administrator My cousin obliged him and waited He came back with the Administrator's orders that my cousin should leave the State immediately Pandit Jawaharlal Nehru informed the police that he was going by the first train which was leaving Jaito that evening The police said 'My orders are that you should leave immediately' Pandit Jawaharlal Nehru said "That is the only train by which I can leave and that is the earliest I cannot evaporate in the air" He got 2½ years' rigorous imprisonment for refusing to evaporate in the air Is that an offence, Sir?

Mr. Gandhi's case is well known and I need not therefore say anything about it. (Mr. S. Sadiq Hasan "What about your own case?") My friend wants to know my own case. My own case, Sir, is this. I was arrested 10 minutes after my Honourable uncle. I was taken to jail the same evening. The next morning I was tried in jail. The Magistrate asked me questions. I refused to answer them. My case was a warrant case. I was arrested on a warrant. The charge was changed to another section which was a summons case. But although the charge was a summons case I was locked up by the orders of the Magistrate forthwith for 9 days, because I would not answer questions. I thought it was useless being locked up for ever and ever. So I decided to have a definite term of imprisonment. After 9 days I said that I had committed the offence and I was proud to do it and would do it again. I got six months for that. (Laughter.) This is how convictions are manœuvred in India. This is how respectable people of India, people who are loved by Indians, are treated. I dare say it serves administrative purposes. But it shows to the country that you are nonentities and you dare not put up your head. But, Sir, if you look at it from the real administrative point of view and not from the vindictive point of view, it is undermining the foundations of that very administration which is behaving in that way. Sir, I do not want to prolong my speech. I just want to warn the Government as a very loyal subject of His Majesty the King and as a very loyal subject of the bureaucracy in this country. (Hear, hear.) I say it is a bad thing. It is not a sensible thing to treat a large number of people in that offhand and callous manner. It is dangerous for their own administration and it is dangerous for their own Government. They want co-operation. Can they expect co-operation from a man who is given 2½ years' rigorous imprisonment for the offence of not evaporating in the air on the orders of the Administrator of Nabha State. The same man, Sir, my cousin, was given six months in another case. He did not appeal. A special judge was appointed to revise the judgment. He was let off without any defence by that judge. The third time he was given 18 months. Altogether, Sir, he has received 1½ years' imprisonment. He cannot come to this Assembly. Why? Because he is a patriot and because he refused to evaporate in the air. There are many other cases into which I need not go.

There is one more case which I should like to mention. That case was from Benares. A Muhammadan gentleman, a doctor by profession, was given a year's rigorous imprisonment. I do not exactly remember under what section, but it was either under theft or some such other offence. When the orders were issued by the Government for the better treatment of the political prisoners, that man who was convicted under that disgraceful section was put on political prisoners' rations. The Government acknowledged, Sir, that he was a political prisoner although he had committed theft. But can you, Sir, send a political prisoner to jail under the charge of theft? That very thing shows that the Government acknowledged that they were doing things which no honest man can think of ever doing. I am sorry, Sir, to have used strong words because I do not believe in using strong words. But, if what I have said is considered to be strong I am sorry for having done it. But I have only stated the facts.

Sir, the Honourable the Home Member must know what the Maharaja Sahib of Mahmudabad said in his evidence before the Reforms Inquiry Committee. I am sorry I have forgotten the page of the report and there are cannot refer to his statement.

**Mr K. Ahmed** He sent a written statement to the Reforms Inquiry Committee which was drafted by you !

**Pandit Shamlal Nehru** : It was not supplied by me, but I do not know whether he asked my friend Mr K Ahmed for it. However, the Maharaja Sahib is absolutely of the same opinion as we, the convicted and non-convicted Swarajists

Sir, I will not say anything more at the present moment but if any Honourable Member says anything which requires a reply I will deal with it fully in my reply (Applause)

**The Honourable Sir Alexander Muddiman** (Home Member) Sir, if I rise at this early stage of the debate it is for the purpose, if I can, of bringing Honourable Members back more closely to the Resolution actually before the House. My Honourable friend will pardon me if I say that many of his remarks seem to me rather to deal with criticism of the courts than to refer to the actual terms of his Resolution. If I have not misunderstood him, I gather that he at any rate pleaded guilty to the charge against him.

Sir, the Resolution as framed by my Honourable friend involves two things, I think. Not only does it involve there being no disqualification at all in the case of a person convicted for any offence whatever by a criminal court but it would also permit a person actually in prison to stand as a candidate. Now, the existing disqualifications on this matter are as follows

As the rules were originally framed, they prevented a person convicted by a criminal court who had received a sentence in excess of six months' imprisonment from standing as a candidate. The only way in which this disqualification could be removed was by a pardon, a difficult thing to obtain and a difficult thing occasionally to grant. Well, Sir, this question of disqualification has been raised, as my Honourable friend pointed out, on several occasions. It was, in fact, as he says, considered by the Standing Joint Committee on Indian Affairs in the session of 1924. My Honourable friend read the motion moved by Lord Clwyd, but I think he appeared to gather from it that the Joint Committee recommended the abolition of all restrictions in this matter. That is not the case. What the Joint Committee recommended was that the proposal of the Government of India should be adopted and that proposal has, in fact, been adopted by the Government of India. The matter was again considered by the Reforms Inquiry Committee last year. I will read to the House a passage dealing with their recommendations on that point.

**Pandit Shamlal Nehru** May I interrupt the Honourable Member, Sir ? The motion made in the Standing Joint Committee was

*" That the Committee shall advise the Secretary of State for India to adopt the proposal of the Government of India to amend the Rules made under the Government of India Act, 1919, so as to remove the disqualification for five years which the rules at present impose upon any person, etc "*

**The Honourable Sir Alexander Muddiman** Sir, the Honourable Member has been misled by the wording of the motion, but the Government of India made no such proposal.

**Mr A. Rangaswami Iyengar** It is certainly the recommendation of the Joint Committee.

**The Honourable Sir Alexander Muddiman** It is not the recommendation of the Joint Committee. It was moved by Lord Clwyd.

"That the Committee shall advise the Secretary of State for India to adopt the proposal of the Government of India to amend the rules made under the Government of India Act, 1919, so as to remove the disqualification for five years which the rules at present impose upon any person 'against whom a conviction by a criminal court following a sentence of transportation or imprisonment for a period of more than six months is subsisting'."

The recommendation of the Government of India did not propose the abolition of all disqualifications as seems to be thought. There was no such proposal of the Government of India. I think the House will accept that when I tell them that that is so.

**Pandit Shamlal Nehru** Will the Honourable Member read the recommendation sent to the Committee?

**The Honourable Sir Alexander Muddiman** I have not got that, Sir. It was based on our letter no doubt.

When I was interrupted I was saying that this matter was considered by a Committee that met last year, the Reforms Inquiry Committee, and their recommendations are to be found both in the majority and minority reports. I think I am justified in saying that though the minority were not very warm in support of any of our recommendations, they did support this or at any rate said they had no objection to the change. This was a recommendation that was discussed at considerable length in the majority report and was a unanimous recommendation. The majority report said

"At present any conviction which involves a sentence of more than six months constitutes a bar to election, unless the offence has been pardoned, for a period of five years from the date of the expiration of the sentence."

They went on to say

"We are not prepared to recommend the introduction of any provisions in the rule which would differentiate between offences involving, and offences not involving moral turpitude. We consider that the attempt to provide such a distinction is, unsound in theory and almost impossible in practice. We however consider that it is inadvisable to require that the offence should be pardoned before the disqualification is removed. The disqualifications under other provisions of the rule can be removed by order of the Local Government in this behalf and provided arrangements are made to secure that there shall be uniformity of action in regard to particular persons in different provinces we consider that similar provisions should suffice in regard to this disqualification also. We also consider that the period of six months is too short, and that it should be increased to one year. This period has a precedent in the similar provision in the South African constitution."

**Mr A Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Urban) May I know whether the proceedings of the Joint Parliamentary Committee were placed before the Muddiman Committee?

**The Honourable Sir Alexander Muddiman** No, Sir, I do not think we had it at the time, nor would it have influenced the Reforms Inquiry Committee if it had been placed before them.

My friend behind me (Mr Tonkinson) informs me that the Joint Committee finished their business in July and the Government of India did not receive their proceedings till last February.

**Mr M A Jinnah** (Bombay City Muhammadan Urban) Will the Honourable Member read what the minority say?

**The Honourable Sir Alexander Muddiman.** The minority say

"It is recommended that a sentence of six months which constitutes a bar to election should be increased to one year. We have no objection."

**Mr. M. A. Jinnah.** May I just say a word on the point. The minority took this view that it was certainly better than what it was before. We therefore had no objection to any improvement being made.

**The Honourable Sir Alexander Muddiman.** If Mr Jinnah feels that that was his view in the Committee it is not for me to contest it. I do not desire to take the minority a bit further than the report takes it. If the Honourable Member thinks that I have overstated the case, I regret it. I would say that I have no desire to take his recommendation one inch further than it goes.

**Mr. M. A. Jinnah.** I think it is no recommendation at all. They simply say, "We have no objection" because they think that they had something better.

**The Honourable Sir Alexander Muddiman.** On that report we approached the Government at Home and in the Home Department Notification, dated the 23rd July 1925.

**Mr. A. Rangaswami Iyengar.** The new Government, the Conservative Government?

**The Honourable Sir Alexander Muddiman.** Our Notification was dated the 23rd July, 1925. The Honourable Member can judge from that. The effect of the amendment was to provide that the period of sentence which constitutes this disqualification should be one year, and we also provided that pardon would not be necessary, that the disqualification could be removed by order of the Local Government with the previous sanction of the Governor General. We have provided two things, we have enlarged the period of imprisonment to one year and also enabled some discretion to be exercised by the Local Government in regard to that imprisonment. It is open to the Local Government to say that in its judgment the offence committed was not such as to require disqualification. I am not personally greatly enamoured of an arrangement by which power in this matter is given to a Local Government. I would much prefer some entirely automatic arrangement, but for reasons I will give, unless you attempt to apply some such test as moral turpitude—and I agree entirely with what the Reforms Inquiry Committee say that it is an impossible test to apply, since moral turpitude is a matter for divines rather than administrators. (*Several Honourable Members.* "Leave it to the constituencies.") In that connection I would like to read an observation made by a very distinguished Law Member many years ago. He was pressed to insert in a statutory regulation or law some definition referring to offences involving "moral turpitude." He said on that

"Is there any precedent for the phrase 'moral turpitude'? I know of none. Is it 'moral turpitude' to put arsenic in a Viceroy's tea for political purposes? Is it 'moral turpitude' to murder all the English in a mufassal settlement in order to provoke a mutiny? Is it 'moral turpitude' to publish articles in newspapers calling on Indians to do either of these things or to rise and assassinate their rulers? These seem nice conundrums for divines, but as a mere lawyer I give them up. The amendment would provide employment for the honourable and deserving profession to which I belong, but from any other point of view it seems, at any rate at first sight, to be difficult to defend."

That was the opinion of a very distinguished lawyer, and the reason I quoted it was to show that the provision, which I myself consider rather objectionable that Local Governments should have this power of distinguishing different kinds of offences, is in fact a way out of inserting some

phrase such as "moral turpitude" in the statutory rules. If you did put in moral turpitude then the question arises, who is to define what is "moral turpitude"? We hold very different views on that. Many Members on the other side of this House think things which I might regard as perfectly legitimate to involve tremendous "moral turpitude". On the other hand, it is possible that I consider certain things to come under that definition though my friends on the other side may not agree.

I go back to the main question. We have done a good deal in the way of advancing in the direction the House wishes. We have extended the term of imprisonment and have provided a way round this difficulty which you would meet whatever phrase you inserted.

Then the question remains, is it justifiable to impose any restrictions at all. That is the question which I will now deal with. I think you will agree with me that something in that nature is essential. (*Honourable Members* "No.") It is perfectly true that in England a man who has served his term is purged. It is also true that the House of Commons has power to expel a Member, this House has no power to expel. There is an amendment on the paper which proposes to confer that power on this House but when that power is conferred I hope I shall not be Leader of the House. It is an amendment I am perfectly certain will take some years to get through therefore I feel comparatively safe. It is not a fact that in other countries no restriction of this kind exists. In many countries the matter is dealt with in rather a different way, that is to say, instead of having what I may call an automatic disqualification of this kind, it is left to the discretion of the judge trying the case. Certainly in some continental countries the court in addition to the imprisonment, whatever the term may be, may impose loss of civil rights which may be for life or for a considerable period according to the gravity of the offence. There are those two ways of dealing with the question. I do not think it has ever been dealt with in the way I have just referred to in any English-speaking country, or in any country which draws its institutions from the law of England. Therefore I do not suppose the House would consider we should move in this direction in revising our system. That a criminal offence should operate in certain circumstances as a disqualification for election to a legislature seems to me fairly easy to defend. Now the latest constitution which has been evolved by the British Parliament is the South African Constitution (*An Honourable Member* "Oh!") and that provides for this matter in this manner. The South African Constitution was not evolved in South Africa entirely, it is based on the best constitutional opinion of the time. It has often been quoted against me in connection with our own constitution in this country, so Honourable Members must not be prejudiced against the Act because the words "Africa" occurs in it.

**Mr A. Rangaswami Iyengar** Leave it to us.

**The Honourable Sir Alexander Muddiman** Section 53 of the South Africa Act of 1909 runs as follows:

"No person shall be capable of being chosen or of sitting as a senator or as a member of the House of Assembly who,

(a) has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than 12 months unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election."

That is in fact our rule but difference between them. On:



has, as I say, left power to the Local Government to take into consideration the nature of the offence committed. I think it is of some importance to consider this particular provision because, as I say, that was the last constitution brought forward by the experts in these matters. They might have left it as it exists in England, but they deliberately took the other course. Now as far as India is concerned, as far as I am aware, some qualification of this sort has existed from the time of the old Councils, and the main opposition to it is undoubtedly based on, and the object of this Resolution and the reason why the House is taking the matter up is entirely connected with, events in recent years. It has been thought that it is the deliberate intention, quite wrongly I may say, to use this power for the purpose of excluding political opponents who have had the misfortune to fall within this claws of the law.

**Mr M. A. Jinnah** Clutches of the criminal law

**The Honourable Sir Alexander Muddiman** Clutches of the criminal law. On the other hand, however reasonable, or I should say rather, however natural that feeling may be, I trust the House, in approaching this matter, will not be led away by circumstances of that nature from considering that they are dealing with a proposition for the protection of their own Legislature. It has been said that those who break the laws should decide whether the laws they have broken are valid or not. I have never been able to assent to that proposition. It seems to me a very dangerous proposition, and as I have said the rule as it stands does provide a door by which the quality of the offence may be looked at. If you have no restrictions at all you will be taking away what I think the House ought to consider to be a proper safeguard. If you have the restrictions as they stand now you will not be shutting the door to any person whose claims could be put forward legitimately.

**Mr A. Rangaswami Iyengar** Of course

**The Honourable Sir Alexander Muddiman** The Honourable Member says "of course."

**Mr A. Rangaswami Iyengar** Because it would be in the hands of a Government which have behaved in the past in a way which does not deserve our confidence.

**The Honourable Sir Alexander Muddiman** Well that may be the Honourable Member's view. It is not mine. As I say if you are going to have any restrictions at all, the restrictions that now exist are reasonable, they deal with the matter in the only way it can be dealt with. I trust the House will accept the fact that we have made a step forward in response to the demands of this House and that we have arrived at a position which is not unreasonable. I trust the House will support this view.

**Mr A. Rangaswami Iyengar** I desire to move an amendment which would remove the first objection which the Honourable the Home Member had to the Resolution as originally framed. As a matter of fact, the words of the Resolution are identical with the words used by the Joint Committee of Parliament in regard to this matter. However, to remove the doubt which he has raised as to whether a man who is actually serving his term of imprisonment could be elected or not—that question, I say, can be settled by the acceptance of the amendment which I have the honour to move, namely

"That at the end of the Resolution the following be added  
'after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned'."

This, I submit, is exactly the state of the law in England and the words, in fact, are actually taken from the statute law. So long as a man who has been sentenced to imprisonment by a court has endured that punishment or so long as he has been pardoned by Government, the law in England, and the law I take it in all really civilised countries, imposes no bar whatever—I do not include the South African Government among civilised Governments—the law imposes no bar whatever on the choice of the electorate. The punishment that is imposed, as my Honourable friend, Mr. Acharya has well pointed out, is intended to reform the man and when that man is reformed, it must be perfectly open to him to seek to do public service by the suffrages of his countrymen. Whether he has been reformed or not, it is not for those sitting in the seat of authority in India, much less for those who represent the bureaucracy in this country to sit in judgment over him and say “This is not a reformed man, this is an unregenerate man and therefore I shall not allow him to stand for the Councils or to represent his countrymen, however much his own countrymen may think fit to elect him without opposition and by a unanimous vote.” That this should be the unfettered right of the constituencies is the proposition which has been the accepted law in England from the earliest days of freedom and my Honourable friend has no ground whatever to say that the law should be different in this country. So far as we are concerned, I do not think that we in this country are more criminal than the criminals in England. We are as good or as bad as the people in England and I do not want to draw comparisons to-day. But I do say that there is absolutely no justification shown why we should be deprived of our elementary political rights in this respect. My Honourable friend Sir Alexander Muddiman has referred to the proceedings of the Joint Committee. He tried to explain that what the Joint Committee really did was what the majority of the Muddiman Committee did. I join issue with him at once on that matter. I say that if it was true that the Joint Committee did think so at the time there is no reason why they should have worded the Resolution which they passed in the terms they did. I accept my Honourable friend's statement that the decision of the Joint Committee was not in the hands of the Government of India, but I certainly do not admit that the Joint Committee did not, when they passed this Resolution, mean more than what the Government of India meant. I would again refer him to the actual words of the Resolution. Whether the Joint Committee thought that they were dealing with a recommendation of the Government or that they were dealing with a recommendation was to remove all the disabilities that were imposed by the rule as it existed before ....

The Honourable Sir Alexander Muddiman: I am sorry to interrupt the Honourable Member, but he said the words “to accept the proposal of the Government of India.”

Mr. A. Bhasaswami: I think the recommendation is there described in words, not merely in substance.

The Honourable Sir Alexander Muddiman: There was no such proposal as he suggests.

Mr. A. Bhasaswami: I think it is clearly stated that the proposal was to accept the recommendation of the Government of India.

declined to do so. He is again asserting it, Sir, and we want to know what the Government of India said before we can accept this statement. The proposal is referred to as under consideration and they continue to give their recommendation in words which are quite clear and specific and do not require any reference to the proposal to be understood and would indeed become unmeaning if they are correlated with what the Government of India purport now to have proposed. I submit that the fact that it emanated from the Government of India or did not emanate from the Government of India, is absolutely irrelevant to know whether the Joint Committee did not mean what they said. I therefore say that so far as the Joint Committee which has been set up as the authority in this matter is concerned they have definitely given an opinion to the Government of India that this disqualification should be wholly removed. Since then, it may be under a more favourable atmosphere to themselves, the Government of India managed to get the sanction of the Secretary of State for the new rule that they have now framed. I submit, Sir, that the report of the Joint Committee stands and it ought to be accepted by this House and by the Government. Then, Sir, the Government in this country published the notification on this matter on the 25th July last in the Gazette of India, just on the eve of the meeting of this Assembly for carrying out what they say is the recommendations of the majority as well as the minority of the Muddiman Committee. So far as the opinion of the minority is concerned, my Honourable friend Mr. Jinnah has made it plain that what they meant was that they had no objection to the little improvement that was made. He made it perfectly clear that he was not a party to the recommendation at all. Therefore I say, Sir, that the Government cannot claim the unanimous support of all the members of the Muddiman Committee to this. But, Sir, the Government had the opportunity to place the whole of this matter before this House. The great Lord Birkenhead stated in the House of Lords that he was going to consult on the Muddiman Committee's recommendations the very "representative body" of the Indian Legislative Assembly before he took decisions thereon. Why was the Government in a hurry to take this matter up and deal with it piecemeal just on the eve of the meeting of this Assembly? Then, Sir, my friend referred to this notification and pointed out that the notification left it quite open to those who would still be affected by this rule to apply to the Local Governments and that the Government of India, as I should say in effect, constituted the Local Governments the moral censors of those patriots whom the people may want to elect to represent them in these legislatures.

Now, Sir, my Honourable friend in the majority report was perfectly clear on the question as to what amounts to moral turpitude and what does not amount to moral turpitude—that it was very difficult of definition. If it was so difficult for the Muddiman Committee, if it was so difficult for the distinguished lawyer who was Law Member of the Government of India, to know what is and what is not moral turpitude, I ask, Sir, whether the Local Governments could be proper judges of what would or would not constitute moral turpitude in the case of those whom the people may desire to elect to represent them in this Legislature. I say, Sir, not only that the task set before the Local Governments is admittedly an impossible task, but that it is expressly put in their hands for the purpose, until the Government show to the contrary, of repressing the people. It is one of the series of acts of repression which this Government have been

steadily maintaining in this country with a view to rob us of our liberties. Sir, if it is true that what amounts to moral turpitude and what does not amount to moral turpitude is a question very difficult of definition, I want to know whether any imprisonment which has been given of more than one year would necessarily brand a man with moral turpitude. Reference has been made by my friend Mr Shamlal Nehru to the case of a distinguished and noble patriot of this country, the son of our distinguished and worthy leader—Pandit Jawahirlal Nehru. That great patriot Sir, was honoured in all with imprisonment of over four years. In no case did the magistrate or the court in question consider him to be guilty of any offence of moral turpitude and yet he is disqualified under the rules. Now, Sir, what is his offence ?

The Honourable Sir Alexander Muddiman. What is the section ?

Mr A Rangaswami Iyengar. He was charged with the offence of abetment of intimidation and of abetment of conspiracy to extort. Now, the facts of this case were merely these. First I will read from the judgment of the magistrate himself.

“ First came the Resolution in the minute book of the Town Congress Committee passed at a meeting at which Jawahirlal Nehru was presiding. Then came the speech of Jawahirlal Nehru in which he announced that they had tried persuasion until he was tired of it and would now compel the cloth dealers to carry out their so called pledges ”

Then, Sir, the magistrate himself admits in the very next passage

“ It is true that in his speech of the 25th April, Jawahirlal Nehru does not explicitly threaten extortion but it is extremely improbable that he was ignorant of the threat made by the Secretary of the Town Congress Committee in his letter of the 26th April 1921. In any case, in the circumstances of the case it was clearly a probable consequence of this instigation. ”

Now, Sir, this is the only evidence against him and he was sentenced to six months' imprisonment at this time. Sir, that is not the real offence with which my friend Pandit Jawahirlal Nehru was charged. The real offence for which he was sent to jail, once, twice and thrice, was stated by Pandit Jawahirlal Nehru himself in the memorable statement which he made before the magistrate on that occasion. He said

“ I stand here charged with criminal intimidation and abetment of an attempt to extort. The warrant of my arrest bears also the familiar section 124A, although I am not being tried for it to day. I propose however to make a comprehensive statement. I cannot divide myself into various compartments, one for picketing another for sedition and yet another perhaps for volunteering ”

The Honourable Sir Alexander Muddiman. May I ask what book you are reading from ?

Mr A Rangaswami Iyengar. I am reading from a cutting relating to the judgment. I will present it to the Honourable the Home Member when I have done with it.

“ All my activities have but one end in view and that end I have striven to attain with all the strength and energy that is in me. Less than ten years ago I returned from England after a lengthy stay there. I had passed through the usual course of public school and university. I had imbibed most of the prejudices of Harrow and Cambridge and in my likes and dislikes I was perhaps more an Englishman than an Indian. I looked upon the world almost from an Englishman's standpoint. And so I returned to India as much prejudiced in favour of England and the English as it was possible for an Indian to be. To day ten years later, I stand here in the dock charged with two offences and with a third hovering in the background—an ex convict who has been to jail once already ”

the present system of government in India. That is the change which the years have wrought in me. It is not necessary for me to recite the reasons for this change. Every Indian knows them. Every Indian has felt them and has hung his head in shame for them and if he has retained a spark of the old fire in him he has taken a solemn pledge to strive unceasingly for India's freedom, so that his countrymen may never again be subjected to the miseries and humiliations that are the lot of a subject race. To day, sedition against the present Government in India has become the creed of the Indian people, to preach and practise disaffection against the evil which it represents has become their chief occupation,' and so on

That is really the position and those who now demand their elementary right, should at least be respected in this year of grace 1925. I say, Sir, that the real reason why this disability is maintained, why this disqualification is put on the Statute-book, is to give power not only to the Government of India but all Local Governments to exclude whomever they think to be politically undesirable from being elected to the Legislatures in the land. Unless that be the case, I do not see why any discretion should be given to the Local Governments. After all, it is not really a question of judging what is and what is not moral turpitude. If it is a question as to whether a particular man should or should not become a Member of the Legislatures, the best judges are the constituencies. They know who is a patriot and who is a vagabond. They know who is a toady and who is a fighter for the people's liberty and therefore I say it is a deprivation of the rights of the constituency so far as the patriots are concerned to impose this kind of disqualification. They are not going to beg of you for these little liberties. They will not come to you on their knees and say that they want the honour of sitting in glory in this Assembly. They will not ask you anything of that kind, but I say, Sir, the tax-payers, the voters in this country, in their thousands, in their millions, have a right to demand that their liberty of choice should not be fettered. I do not therefore base my case upon the proceedings of the Joint Committee or upon the correspondence which the Government of India decline to place at our disposal. The sacred rights of mankind are not to be rummaged for in old parchments or musty records. They are to be gathered from the very nature of man, as Alexander Hamilton put it, they are written as with a sunbeam upon the whole volume of mankind, and we, Sir, cannot be deprived of it except by the most wanton and aggravated acts of oppression on the part of the bureaucracy in India. Sir, I move the amendment.

**Mr President** Colonel Crawford

**Pandit Shamlal Nehru** I have only one word to say, Sir. I accept the amendment moved by Mr Rangaswami Iyengar.

\*Colonel J D Crawford (Bengal European) Sir, I do not desire to take up the time of the House at any great length, but I rise to make the position of myself and my non-official European colleagues in this House clear with regard to the present Resolution under discussion. As the Resolution stands, Sir we are not able to accept it, because the feeling amongst ourselves is that an actual criminal as such is not a suitable representative of the people. On that point I do not think, Sir, that there is any difference of opinion between the Indian Members and ourselves.

**Pandit Motilal Nehru** (Cities of the United Provinces Non-Muhamadan Urban) There is

**Colonel J D Crawford**. In due course, Sir, no doubt we shall be able to adopt the practice which exists in England, but I think this House are of the opinion that such a step would be premature (*Honourable Members* "No, no") When I look at some of the amendments, Sir, we find ourselves in very considerable sympathy with the intention underlying those amendments, that is, that persons who have been convicted of offences not involving moral turpitude or violence should be eligible for election to the provincial Councils and to this Assembly. Our difficulty, Sir, is to find some practical method of making some automatic provisions of this sort. Is it possible to frame any electoral rules which would place the position beyond doubt? Moral turpitude is a very difficult thing to define, and political offence is also a very difficult thing to define. If, for instance, somebody attacks me because I happen to be a European and then calls that a political offence, is he guilty of assault, or is he not? If he attacks me, he becomes guilty of a crime, so it is rather difficult to understand how you can frame any practical, automatic provision of this nature. I have no doubt Government will consider what is possible in this matter. Personally, we are only too ready to forget the past, and we hope that those who in the enthusiasm of their political convictions overstepped or offended against the law will join with us in endeavouring to further the political progress of India. But we do not find ourselves in a position at the moment to support either the original Resolution or any of the amendments as framed. But we do desire to say that we are entirely in sympathy with the intention of this House that any disqualification against these persons shall be removed, and we hope that Local Governments will make special endeavours to remove any disqualifications that exist of this nature. With these words, Sir, I oppose the Resolution.

**Colonel Sir Henry Stanyon** (United Provinces European) Sir, I am in entire sympathy with the spirit underlying the Resolution (Laughter) I believe that the true object of the Honourable the Mover is to ensure that no one who has been incarcerated for over-stepping the boundaries of the law by an overzealous prosecution of his political views should be disqualified from election to the Legislature, and that it was never the purpose of the Resolution to make eligible persons found guilty of dishonest or immoral offences. Such persons are excluded, not because of their convictions but, because such convictions reveal them to be by character unfitted to be trusted with the duties of a Legislature. Representation by such a person would be as disgraceful to the constituency concerned as it would be derogatory to the status of this House. *End.*

soundness of that proposition from a purely penological point of view. But there are consequences which are beyond legislative control. The argument was strongly used before a bench of Honourable Judges in England some centuries ago in connection with the question whether a solicitor who had been branded for forgery and undergone his sentence should be struck off the rolls. It was strongly contended that to strike him off the rolls would be to inflict a second punishment for the same offence. The Judges exploded the fallacy of that argument. They pointed out that the striking off was not a punishment for forgery but an inevitable consequence of the conviction which had revealed that the Solicitor had a character which disqualified him from being allowed to remain on the rolls of an honourable profession. And so here I would disqualify a criminal, in the proper sense of that term, not because he had been convicted but because I had found out his bad character. A confessed dacoit may become an approver and be pardoned. But he would be as unfit to sit in this House as if he had been convicted.

**Pandit Motilal Nehru** He will not be disqualified.

**Colonel Sir Henry Stanyon** That shows the fallibility of rules. But the holding of particular political views is neither an offence nor dishonesty. Where a zealous enforcement of those views brings a politician up against the barriers of criminal law, and he goes to jail for breaking through that barrier, his punishment by the court exhausts his wrong doing, and he emerges still an honest politician, possibly of the highest *moral* character and as fit as my friend the Mover or my old and esteemed friend, his Honourable uncle and leader, to sit in this House. Here, then, we have a broad dividing line. It seems in every way desirable that an impulsive politician, whose unconstitutional methods of enforcing his policy have only led him to jail, should be given an opportunity of following constitutional lines as a Member of the Legislature. He may, by that course, help his country forward, and may raise himself even to the presidential chair.

The argument that because there is no restriction or disqualification in England such as we have in India there should be none here leaves me cold. I have heard analogies drawn between the two countries which are as futile as they are misleading. Only a few days ago in the course of the reforms debate I heard one Honourable and learned Member argue that because there are political differences between England and Ireland therefore my friend Colonel Crawford was wrong in saying that India is not a nation. Again, it was urged that India should have Dominion Government because that is the form of Government allowed by the British Parliament to the European settlers in the Colonies. In matters of the kind before us, let us consider India only, and its own facts, and let us face those facts courageously. There is no rule of disqualification in England because it is not necessary. We have there a responsible and enlightened electorate embracing a vast majority of the population wide awake to their own interests and fully conscious of the duties of franchise. As the Honourable the Mover candidly admitted, the electorate in England can be trusted to see that no immoral or dishonest criminal shall be represented in the Legislature.

**Mr Devaki Prasad Sinha** 'What about Horatio Bottomley ?

(Pandit Shamlal Nehru rose to speak, but Sir Henry Stanyon did not resume his seat.)

**Mr President.** Order order. The Honourable Member (Sir Henry Stanton) is not willing to give way. Will the Honourable Member (Pandit Sham Lal Nehru) resume his seat. (Colonel Sir Henry Stanton)

**Colonel Sir Henry Stanton.** I hear the question regarding Horatio Bottomley. I have still to learn, Sir, that Horatio Bottomley has, since his conviction, been re-elected. In fact, he is still in prison. Can any one claim that these factors are present in India? The greatest optimist must answer that question in the negative. Their creation constitutes the goal of our present efforts and ambitions for India. But to day we have to face the facts that the electoral roll is a minute fraction of the population. I believe it is less than one-hundredth, though I speak subject to correction. And even of this small number the majority of the constituencies are wholly inexperienced and even unconscious of the responsibilities of franchise. They are mere shuttle cocks of various party organisations. We have to educate these electors and to teach them that it is not desirable to send up violent or dishonest or immoral criminals as their representatives. Therefore some rule of disqualification is necessary. (*An Honourable Member* "No.") The Resolution of Pandit Sham Lal Nehru would have no rule at all. The amendment of Khan Bahadur Saif-uz-Zaman Khan attempts to limit the disqualification to proper cases, but it is rather too vague. Who is to decide what is "a political offence" when the conviction is for murder or riot or rebellion or sedition? Who is to decide whether or not moral turpitude is involved?

**Mr President.** Perhaps the Honourable Member is aware that that amendment is not before the House.

**Colonel Sir Henry Stanton.** I am sorry, Sir. The fact is that no general rule is practicable. Every case must be decided on its own merits. Though I cannot support the Resolution because it is too wide, and the amendment because it is too vague, I say, without hesitation, that the Government should endeavour to devise some rule or convention to draw clearly the line that lies between the dishonest, immoral criminal whose character unfits him to become a legislator and the over-zealous and unwise politician who has had to pay the penalty of the law or enjoy the martyrdom, resulting from illegal action, but whose character contains no such defect.

**Prince A. M. M. Akram Hussain Bahadur** (Bengal Nominated Non-Official). Sir, I use to raise my voice against this Resolution. (Hear, hear.) I am very glad I have been cheered. I wish it to go down on record that the mentality of Indians wholesale is not such that they are unable to understand the wording of this Resolution. The Resolution as it reads, Sir, is one by which we propose to throw open the doors of the Legislature, both Central and local, to people who are criminals. There is nothing about political criminals or otherwise mentioned in the Resolution itself, nor in the amendment which has been moved. Personally, Sir, I think it will be highly undesirable to remove all restrictions and to let this House and the other Houses of Legislature be composed of men who do not know the art of self-restraint and are always more or less forward in breaking prescribed laws, however those laws may be harsh in their consideration and estimation. In society, Sir, any person who is a criminal is boycotted. We do not want to have any thing to do with a person who is a proved criminal, and it seems to me quite absurd that in Houses of Legislature, where much self-restraint



is wanted and where we want people of sober judgment, of steady temperament, to take part in the serious business of legislation, we should have people who are always apt to break the law. I do not know, Sir, if there is much that is required to be said on this Resolution. I have only got up, as I said, to have it on record that I for one am again t this Resolution and the amendment. I will not take up more time. Sir

**Pandit Shamlal Nehru** Sir, I have heard all the speakers, both against and for my Resolution. I have heard with little surprise—I must say that I expected what I have heard—my friend the gallant Colonel Crawford. Colonel Crawford says that he does not consider that there should be any difference between Indians and Europeans in a case like this, but, at the same time, he wants a different rule in India to what there is in England. Colonel Crawford wants us Indians, to join with Europeans and he promises forgetfulness. I do not know of what. Perhaps of our past misdeeds. My friend Colonel Sir Henry Stanyon has mentioned the case of a solicitor in England who was struck off the rolls, and probably, I suppose, re-elected there by the “enlightened” English electorate (*Colonel Sir Henry Stanyon* “He was not elected”). My friend informs me that he was not elected, but Mr Horatio Bottomley, a man convicted for dishonesty (*An Honourable Member* “He was not elected”). It was said by somebody just now that he was elected. I am glad to hear that he was not elected. My point was, Sir, as I said in my opening speech, that no constituency, either in England or in India, will ever elect a dacoit or a robber for its representative on the Legislature, which my Honourable friend Colonel Sir Henry Stanyon has perverted into this, that I said that English constituencies will not do it, meaning that Indian constituencies were capable of doing it. Sir, I have never been to England, but I know human nature all the world over, simply because I have met people from all the world over. I have met Englishmen from England, very good people—(Laughter)—but they change after six months in the country. From my experience I say that no constituency in any civilised country will ever elect a robber or a thief for its representative on the Legislature. This is what I said, Sir. But Colonel Stanyon’s point is that English constituencies consist of “enlightened” people, and I suppose he means just the opposite of the Indian constituencies. I should like to tell him that there are no more gentle, more sensible, more honest people on the face of the earth than the Indian villagers. Sir, they know the rights and wrongs of everything. They only do not know how to read and write and that is not their fault, but the fault of the bureaucracy. Sir, in India, if a person is known to be an immoral person, to be a thief or a dacoit, the Indian, the real Indian, could never have any respect for him, and without respect, you cannot be elected to any Legislature, or even to any local body. My friend Colonel Stanyon talks of the Indian politician. Sir, there are no politicians in India. My opinion is that unless you have your own government, you cannot have any politics. We are called politicians. I for one have never been a politician. We come here to safeguard as much as possible our interests. That is not politics. We come here to minimise the exploitation of the country to as low a degree as possible. I, however, thank my friend for small mercies. He has recommended us to the good graces of the Government, to see to it that if we apply to be declared as qualified persons to

stand for election, they may be pleased to accept our application. My friends, the non-official Europeans of this Assembly, with whom I have been working here for nearly two years, have always in their speeches been talking about the sympathy they have with our cause in India. I think, Sir, that is purely—lip sympathy,—tall talk, nothing else but tall talk. I have not in these two years come across a single non-official European who has ever gone into the same lobby with us . . . (*Several Honourable Members* “What about yesterday?”) except when their own pockets were concerned. They talk of “forgetfulness” and “forgiveness.” Who wants their forgetfulness? Who wants their forgiveness? We certainly do not. They talk as if they were the Home Member themselves. (Laughter) Sir, the Home Member has never talked in that way in my hearing. I will give him credit for that. But my friends, the non-official Europeans, have very often done so. Then, Sir, Prince Akram Hussain, the son of the King of Oudh, talks of our “mentality.” Sir, I have very great respect for the family of the King of Oudh and I do not want to say much or criticise the Prince. But I must tell him to look to his own mentality. The Prince acknowledges—I am glad to see that he acknowledges—that Indians will never have any sympathy with convicted robbers or dacoits. If he is sure of that, why is he opposing my Resolution? He is sure that robbers and thieves will not be elected. At the same time he is afraid that the constituency might return them. Is that the reason? If he thinks that no robbers and thieves can ever come in, he should go into the same lobby with me.

Now, Sir, I come to the Honourable the Home Member. I agree with him that “moral turpitude” cannot be defined. There is no distinction between any class of persons in the criminal law of the country. Unfortunately for us, we are herded together with the robbers and thieves and treated by our superior bureaucracy in the same way as robbers and thieves are—like dust beneath their shoes. The Honourable the Home Member has made a very able speech. I am prepared to acknowledge that, although I am not prepared to acknowledge that there were any reasons in it—any arguments that any sensible man can possibly agree to. The Honourable the Home Member is prepared to refer the matter to Local Governments. (*The Honourable the Home Member* “No.”) That is what I was told by some of my non-official European colleagues. I am glad to find that he is as strong as ever and has not given way. However, may I inquire from the Honourable the Home Member, is Pandit Jawahirlal Nehru a criminal, is Mahtama Gandhi a criminal, is Maulana Muhammad Ali a criminal, is Maulana Shaukat Ali a criminal, is Lala Lajpat Rai a murderer? Does he want them to co-operate, does he want them to come to this House, or is it only the tall talk of co-operation and nothing else? Sir, I want them to come here, to work with me, to go into the same lobby with me. They are bound to do that if they come here, and I submit that that is the reason which is troubling Government, that is the reason why Government wants to keep them away. Ex-prisoners, ex-convicts, but respectable men in our view are dirt in the view of Government, worse than dirt. As I have said in my first speech, if the Government want co-operation they must show a change of heart be it ever so small indeed. The acceptance of this Resolution will not be a big change but it will be a small, a very small change, but a change all the same. A man who ought to have

been rewarded by a just Government for his patriotism, a man who has given his all, an honourable man—what would he feel when you treat him like dirt beneath your feet? Do you expect him to fall in love with you? I submit human nature makes it impossible, human nature compels him to work against you. (*An Honourable Member* “Are you in love with Government?”) I am in love with the whole House. I am an exceptional person. Sir, if Government want co-operation, let them show a change of heart, let them begin here. We will show a change of heart of the same degree as they do. Let them lead the way and we will follow them to any extent that way. With these words I hope that the House will go into the same lobby with me.

**The Honourable Sir Alexander Muddiman** Sir, I do not propose to detain the House at any length as I made rather a long speech when I was first dealing with the Resolution. There are one or two points that struck me in this debate. One is that the disqualification as it stood before we diminished it has not prevented a large number of gentlemen who took part in political movements from sitting in this House. That is the first point.

**Mr A. Rangaswami Iyengar** There are many more fish in the sea.

**The Honourable Sir Alexander Muddiman** The second point is although I am accustomed to attack from all quarters, which attacks I receive, I hope at any rate more in sorrow than in anger, I did not expect to be attacked for having taken action in advance of the Reforms Inquiry Committee on a matter which has been debated in this House and elsewhere for some time and in which the action taken is certainly in the direction the House wishes. My Honourable friend, Mr Rangaswami Iyengar thought that was a good enough stick to beat Government with, but I do not think he is quite reasonable. We put forward a proposition which is considerably in advance of the existing law and we got it put through and action was taken. And then we are charged with having neglected to consider the views of this House because we took action as soon as we could!

**Mr A. Rangaswami Iyengar** If you had consulted us, we would have given you something more.

**The Honourable Sir Alexander Muddiman** Something was done and that is what we are always charged with failing to do. It was far more considerable than the House is apparently prepared to admit. My Honourable friend the Mover has pointed out very rightly that you cannot have a definition of “moral turpitude” and the House has accepted that view. I have told the House that I do not myself regard the present arrangement as entirely satisfactory by which the discretion, I may put it like that, is left to the Local Governments. I should have preferred some automatic arrangement, but I really do not see how else it is to be done. One Honourable gentleman has proposed an amendment which is on the paper but which he has not moved—that the test should be “in the eyes of the general public.” The House recognizes I think that it is very difficult even for an elected Member to ascertain what the general public think on these matters. Of course any such phrase is too vague to need further consideration. Then, Sir, it is said that no constituency would elect a dacoit. I do not think that there is any great danger of that. After all, Honourable Members have umbrellas and I think that they themselves will be against the elec-

tion of such a person (Laughter) But I have pointed out that in most constitutions there is some provision made to prevent undesirable persons coming forward as candidates, and in most constitutions there is a provision of one kind or another for taking into consideration the fact that a man who breaks the law of his country is *prima facie* not a man who should make them. I have not really heard that answered. My Honourable friend opposite referred to a Roman Governor. But may I remind my Honourable friend that there is one very famous historical occasion where a Roman Governor was concerned. And on his referring a question to a gathering of the people, the populace did elect a dacoit (*An Honourable Member* "They were right"). If my Honourable friend had been familiar with the case in question, he would hardly have made that interruption. I have endeavoured to meet this Resolution in a sympathetic way. I do recognise the desirability of bringing in as far as possible all the persons who are willing to co-operate in a constitutional manner, but I must say that I do not think that the rule as it now stands is unreasonable. That it does give a certain amount of discretion is admitted. It is also admitted that it is difficult to give that discretion in any other way, and therefore I am compelled to oppose the very wide and sweeping Resolution of my Honourable friend which will bring in not only persons who have been sentenced to imprisonment, but persons actually serving. Sir, I reluctantly oppose the Resolution.

**Mr President** The original question was

" This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for elections to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting "

Since which the following amendment has been moved

" That at the end of the Resolution the following be added

' after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned ' "

The motion was adopted.

**Mr President** The question is

" That the following Resolution as amended be accepted

' This Assembly recommends to the Governor General in Council that the rules made under the Government of India Act, 1919, for elections to the Indian and provincial Legislatures be so amended as to remove all the disqualifications which are at present imposed upon any person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than one year is subsisting after he has endured the punishment to which he was adjudged or been pardoned for the offence concerned ' "

The motion was adopted by 48 votes against 47

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*Wednesday, 2nd September 1925*

## RESOLUTION *RE* FUTURE RECRUITMENTS TO THE INDIAN MEDICAL SERVICE

**Dr K G Lohokare** (Bombay Central Division Non-Muhammadan Rural) Sir, since the Honourable Member in whose name this Resolution stands is not in the House I will move the same with your kind permission. It runs as follows

“ This Assembly recommends to the Governor General in Council that he be pleased to take immediate steps to arrange that all further recruitments to the Indian Medical Service—Indian Army Medical Cadre—shall henceforth be only by an open competitive examination held simultaneously in England and India from the year 1926 ”

Sir, to be able to follow this Resolution I beg to solicit the attention of the House to the Resolution and the amendment on the Lee Commission's recommendations. Though these recommendations concerned more the Civil Services, the Indian Medical Service having much to do with the military recruitment, a condition was included in the Resolution of the Honourable the Home Member in the following terms

“ The employment in the provinces of an adequate military reserve, provision of adequate medical attendance for British officers in the Civil Services and their families, and further consideration of the conditions necessary to secure an adequate number of British medical recruits for the needs of the Army ”

These were the three things that were laid down in that Resolution. It was in this way that the question of recruitment of the military medical services came in and we have not yet heard anything about it as will be seen from the interpellations that I have put in this House only a couple of days ago. It was on the ground of the desire of the people and the profession that I wanted to move a Resolution to express the wishes of the House as well as of the medical profession in India as to the recruitment to this military medical service, and hence this Resolution.

The points decided by the Secretary of State so far on the recommendations of the Lee Commission are, firstly, that a superior Civil Medical Service shall be established in India. That is one point that has been settled. The second point is that for the convenience of the treatment of European officers and their families stationed in India separate provision shall be made. The third recommendation of the Lee Commission was to constitute a Royal Army Medical Corps, India, but the Secretary of State has announced that he would not agree to it and would agree to a continuance of the Indian Medical Service. But the other questions have yet been left open which depend more upon the methods of recruitment to the Indian Medical Service. Our object therefore is, firstly, to point out that the Resolution of the Honourable the Home Member in the terms “ an adequate number of British medical recruits ” possibly brings in an element which was not thought of in the Army Committee Report as well as in the Lushier Committee Report. And now it is being distinctly said that they want much more to care for British medical recruits and not for efficiency. My Resolution says that we want equal opportunities. We want the best of the doctor for the Army. We want the best and the most efficient doctors for the service of the country, while here the recommendation from the Government is to secure an adequate number of British medical recruits for the needs of the Army. I may point out

here that in the recommendations of the Medical Services Committee on page 36 it is distinctly stated

“We are unanimously of opinion that it is not advisable to attempt to fix a percentage of Indians to be admitted to the Indian Medical Corps. Our idea is to form the Indian Medical Corps into a *corps d'élite* and while we should legitimately help Indians to appear at the London examination, we consider it of paramount importance that the best possible doctors should be attracted to the Corps”

The Army Medical Service Committee said in April 1919 that their goal was to secure the services of the best doctors which in this reservation is being tampered with -

Secondly, the purpose with which the Esher Committee had reported the necessity of laying down a certain ratio for Indians and the British is this—“for the medical attendance on European servants of Government and their families” That is one of the recommendations of the Esher Committee but the purpose which they put in for reservation of the military posts is a civil purpose not suited to the requirements of the Army. The question of such recruitment involves the question as to how many appointments in the Civil will be reserved for European military officers for a Civil purpose and, secondly, whether it should be a separate service for the treatment of European officers and their families or whether they should form a distinct part and parcel of the military medical service. If these posts are absolutely reserved for the European members of the military medical service it would mean that the whole reserve practically would be taken over by the Europeans and consequently Indians will have a large number of army posts closed to them than would be the result of an open competition. Our purpose therefore is not to lay down any ratio in one way or other so as to hinder the recruitment of the best possible doctors. If European officers and their families require doctors of their own race they may recruit them directly from England and set up a separate service for themselves if they chose. That should not be the cause for setting aside the best Indian medical men who want to enter the army service. That is our contention.

Sir, my object in moving this Resolution was twofold. Our past experience is such as to make us doubt the intentions of Government in respect of medical military recruitment and, secondly, the present process of recruitment, that is the process of selection, is one which we hold to be absolutely bad. That is why we claim an open competitive examination. Our experience in the past has been this. Up to 1900 very few Indians appeared at the competitive examinations. From 1900 to 1910, only a few appeared. From 1910 to 1914 the figures were 5, 3, 8, almost *nil* and 14. At this time I am sorry to mention that the Army Department of the Government of India feared that Indians were swamping the Indian Medical Service and consequently, as is reported in one of these reports in 1911, the Army Department of the Government of India represented to the Secretary of State and to the War Office that some remedy should be found by which the inclusion of Indians in the army cadre should be made most difficult. That was one of the inherent motives in those days. In 1914, recruitment by open competitive examination was absolutely stopped. The reason that was given in one of the answers to my interpellations was that it was not possible to attract a sufficient number of Europeans by open competitive examination and therefore the examination was stopped. May I ask whether there were not first class men who had obtained degrees in Indian medical colleges in this period and, if the Army Department cared to secure these best possible persons, they

have got the best possible doctors from any of these Indian colleges. But they thought otherwise and consequently they introduced only a temporary cadre to which Indians were admitted by selection, and I will deal later on with the process of selection. Their only anxiety was to secure British recruits and fearing that the ratio of Indians was increasing alarmingly they stopped in 1922 recruitment even by selection to the permanent cadre. From 1922 to 1925, only until a couple of months ago, they stopped recruitment of Indians and it was only after the numerous interpellations that I put in here, that 8 or 10 Indians have been given permanent commissions, just a couple of months ago. There is this distrust in the method of recruitment as to the best possible doctors being made available for the Army. I do not stand here to plead the cause of one race or the other. I have precedents to show that the rules for the R A M C lay down that the candidates shall be of pure European extraction, domiciled and born in England. We have before us these precedents. However we Indians are after all philosophic men. We leave it aside for the present but our claim is that if the Indian Army is to have the best doctors, we claim equal opportunities. Let Indians as well as European candidates appear at the same examination and let the best of them be selected. Why should there be a ratio for one colour or the other in securing these doctors? The I M S service is meant for the Indian units of the Army. They are not meant for the British units. It is Indians who are to be treated there and for treating Indians, if Indians are debarred I am sorry I cannot say anything further but absolute justice is on our side when we maintain that the best men should be recruited for this service. Sir, the treatment that these temporary commissioned officers have received even during the war is a sad tale. It has spread throughout the length and breadth of the country. I shall not refer to it to day because I shall have then to import heat into the discussion. I have definite instances with me to show that the treatment they received on account of their colour was absolutely abominable. Sir, it might be maintained that an open competitive examination in this way, simultaneous both in England and India, would be a very difficult matter. How is it to be held at one and the same time? Sir, if Government will entrust it to us we shall find the way. We know that it is quite easy and very easy to settle. I can give you one of the ways for the present. Hold a theoretical examination first let it be Part I. Send those who pass in Part I up to London or whatever place you have for holding a practical examination there. Your British candidates might prefer waiting for two months after the first part for a revision of their clinical subjects because of the delay which these Indian candidates would take to reach London. If the British candidates find it inconvenient to wait for these two months, you may have a Board constituted of the best Indian doctors as well as the best British doctors. Let that Board examine the candidates in England first. Indian candidates will then wait for two or three months for their practical after the theoretical. Let that Board come to India and examine these candidates with the same standard. If you cannot find this convenient, you may very easily devise some other means. Let us sit together and find a way. I am sure where there is a will there is a way and we can, if you agree hold a simultaneous examination in England and in India at the same time. If you still continue saying that there are no means to find a solution I may say, Sir that your purpose in avoiding simultaneous examinations and to ask our boys to go for the examination to London at a great deal of cost is to close the door to Indians. You know, Sir, the

Indian colleges are practically conforming to the standard of the General Medical Council. It was some four years before this, that it could have been maintained that some Indian colleges had no proper provision for clinics in the subjects of Gynæcology and Obstetrics. We know, Sir, that there was a discussion in this House in 1922 regarding the matter, and my Honourable friend opposite, a member of the same dignified profession, knows it too for himself that these standards have recently been so revised so as to give full opportunities of instruction in all these subjects to Indian candidates. They can now with the same standard hold their ground against the British college candidates. What objection is there, then, to admit these standards directly for the examination in India? If you have no other plea of inefficient education, if you have no other plea of inferior status, in profession, or if you have no other plea of inferior physique, I doubt, Sir, how you can refuse. If you yet refuse, we can only say that you want to refuse simply because you want to find a method of excluding Indians from this examination. Sir, what has been our experience of selection during so many years? It has been clearly exposed at the question hour—only a couple of days ago by my Honourable friend, Mr Neogy. I leave that case to him. But our contention is that the method of selection shuts the door against our best possible candidates. So that in time to come, after 5 or 10 years you will make the plea, "Look here, your Indian doctors are inefficient officers." But whose mistake would it be? You would commit this mistake to-day through your own method of selection, and then make capital out of it to shut doors against us still further. Besides, you employ C I D methods to inquire and satisfy yourselves about our men. You do not want men of the best possible type. You want something else. You want backdoor influence. How can you expect the best boys in this way to come in? This Selection Board is of your own making and if you want some sort of men of a standard other than of professional qualifications who in the long run may prove of inferior grade in the professional work, is it our fault, Sir? Let us have a comparison, Sir, for the period between 1900 and 1914—the period when there was the competitive examination. You have had a few officers, say about 50. You have their record of services before you. You can definitely say here from the records of these officers with you if these Indian officers have proved incapable. These Indian officers were with you. They have served in the field in the Great War as well as in India in peace time in hospitals and in an administrative capacity. You can say definitely—I do want your opinion on the point—you can say definitely whether these officers have failed to earn your appreciation. If not, the competitive examination method has been an unqualified success. Your Selection Board will prove otherwise, Sir, and it is therefore that I say that the method of competitive examination is the only way of having the best officers for the service. You ought to care more for efficiency than for anything else. In professional matters it is really very undesirable to say that you want a man of a white or a yellow or a black complexion. It is really very undesirable to depend on such things for securing the best material. I submit, Sir, we have in the medical profession in India a sense of brotherhood, we have learnt not to think of colour or race. Even from the beginning in our medical colleges every boy who is admitted to that course learns not to care for these details but cares only for the professional dignity and for the standard. I leave it to the House to say, if the selection process of to-day has maintained this reputation of the profession.



Moreover, the profession in India has given their views regarding the method of a simultaneous examination. The professional examination comes first, and the military training course afterwards. To make the position well understood I say, Sir, that the Indian profession has said "hold the professional examination first in India, declare the results and take the number you want for the next course wherever you want, if you cannot arrange for it here." The present process too is similar. The profession and the public have expressed their views in this matter last Session. I had given you here resolutions of almost all the important provincial Medical Associations in India, the Bombay Medical Association, the Madras Medical Association, the Calcutta Medical Association, and I had even given you in my speeches then the opinions recorded at some of the public meetings on the Lee Commission's Report. I may add here that the Army in India Committee in 1919 have recorded the same kind of popular opinion. It means Government are aware of this long-standing demand. Here it is in the Esher Committee Report.

"The Indian Medical Service, which should then be exclusively military, should be recruited by simultaneous competitive examinations or by separate competitive examinations in India."

Here are the opinions expressed in favour of simultaneous examination for recruiting the best doctors in the interests of the State and they have been represented to you, Sir, long ago. This report is published in 1919 and the expressions of public opinion came to this Committee a year before at least, *i.e.*, seven years ago. You take it from me that this demand has been persistent for the last 25 years, and in spite of this public demand, if you do not want to attend to it, if you want only the colour qualification, and not efficient officers, if you yet want to spend money unnecessarily on persons for undeserved inducements the least I say is that the expenditure of State money is not being deservedly bestowed. You have been giving inducements in the form of gratuities for 5 years' service of £1,000 to persons with ordinary qualifications. On the other hand, you turn away our best men. They had held temporary commissions, they applied and applied ten times, and you said, "We give you no hopes of a permanent commission." The poor boys resigned the service. Boys from Indian Universities who got their F R C S within 15 to 18 months had to go away because there were no hopes of their being made permanent, and Sir, during the same period third-class L R C Ps and L R C Ss, who passed their examinations by compartments, got in. It is the expenditure of State money at least that you should have cared for, Sir.

Out of 56 European candidates from 1922-25 recruited by the Government of India, Army Department, they had only 1 F R C S and 3 M Ds, while to the best Indian candidates, candidates who had come out in the first class, persons who had the best character even as reported by your C I D methods, persons who were connected with Government servants, persons whom you would take as the most reliable type of persons, could not be given hopes of confirmation. You cared only for colour, the British recruit. You did not care for efficiency. I therefore make a just demand and lay it before this House, it is not only a just demand of Indians but a right demand in the interests of the State and the Empire that our medical men must have the same unrestricted opportunities as all others of serving the country not only for ourselves but for the benefit and the interests of the Empire also.

Mr E Burdon (Army Secretary) Sir, in my humble opinion, a very great deal of the speech of my Honourable friend has been distinctly irrelevant. He has adverted to a number of matters which I know he has closely at heart, but which unfortunately are not included in the terms of the Resolution which was to have been moved by another Honourable Member and has now been moved by my Honourable friend in that other gentleman's place. I do not propose to follow my Honourable friend into all his irrelevancies, if I may be permitted again to use that expression. My first object is to make a statement to the House of the position of Government in regard to the subject of the Resolution, and I thought it desirable that I should, with your permission, Sir, have an opportunity of speaking at as early a stage in the debate as possible. The attitude which Government must at present assume in regard to the subject we are discussing is of a nature which it is necessary to make clear at the outset. It would be disingenuous to do anything else. Further, by stating at once the position of the Government I hope to lead the discussion into a relevant channel which it might not otherwise follow and from which, if it is followed, the promoters of the debate and Government themselves may be enabled to derive the greatest possible profit in the shape of a clear elucidation of the issues which demand solution. The position of Government can be briefly stated and I think readily understood. In the first place, Sir, Government do not wish to oppose the Resolution of my Honourable friend if their opposition is to be construed as a final expression of their opinion in regard to the method of recruitment to be adopted for the Indian Medical Service as it is to be constituted in the future. On the other hand, it is impracticable, and I believe I shall be able to convince the House that it is impracticable, for Government to accept the Resolution at present. For neither the Government nor indeed the Honourable Members of this House possess the data on which alone a final conclusion could properly be based. I will explain at once what is in my mind in advancing this proposition. As Honourable Members are well aware, the Lee Commission formulated comprehensive proposals for the future constitution of the Medical Services of India. I need not repeat the details of these proposals since they are as familiar to the House as they are to myself. But it is important to note that these proposals, taken as a connected whole, raise issues new in character which cannot be decided summarily, merely in the light of Government's previous experience and previous consideration of similar matters. As will be known to those Honourable Members who have studied Lord Birkenhead's statement in the House of Lords of the 29th July, it has so far been decided by the Government of India and the Secretary of State to approve in general principle the constitution of provincial Medical Services. It has also been decided both by the Government of India and by the Secretary of State not to accept the recommendation of the Lee Commission that there should be a unified Military Medical Service in India. Under this recommendation the military side of the Indian Medical Service was to be absorbed in the Royal Army Medical Corps. This recommendation has not been accepted and the decision in this matter, as my Honourable friends will no doubt observe, is in absolute accord with the views which were expressed on the subject from the non-official benches in our debate of September last. The Indian Medical Service is to be retained essentially as a military service, and a war reserve is to continue to be maintained by lending officers to the civil administration. But the decisions have not proceeded further, and many questions still remain outstanding, the settlement of

which must in the nature of things precede a decision upon the method of recruitment to be adopted for the Military Medical Service as it will be constituted on the basis of the general principle to which I have alluded. We do not yet know what the strength of the war reserve will be. We do not know either the number, the status or the remuneration of appointments on the civil side of the administration, which officers of the Indian Medical Service will in future be eligible to fill, and, lastly, we do not know how the Service as a whole, including the war reserve, is to be composed, that is to say, how many Indian officers and how many British officers there are to be. It is to contain a proportion of British officers. That is a settled fact which the Resolution itself recognises.

**Dr K G Lohokare.** The Resolution does not recognise any proportion.

**Mr E Burdon.** Now, I think the House will acknowledge that it would be a reversal of the natural order of procedure if either the Government or the House were to attempt to decide what the methods and avenues of recruitment for a service should be before the essential features of the service have themselves been determined. The first requisite is to know what career and prospects the service is likely to offer, and accordingly what type of recruit we are likely to be able to attract to it. We want the best, of course, but there still remains the question—will the conditions of service which are set up be likely to attract men with the highest professional qualifications and when that question has been answered, then only is it convenient or practicable to consider the channel of recruitment best designed to suit the circumstances of the candidates whom we wish to attract. In particular, when it comes to a question of deciding upon a simultaneous examination in India and England, the composition of the service is one of the very first things we want to know, and in the present instance we do not yet know this with sufficient accuracy.

I wish to make it quite clear, if I have not done so already, that the Government have not at any time in the recent past pronounced against recruitment by simultaneous examination and they have no definite inclination to do so at the moment. As one of the alternative methods of recruitment, the question is bound to enter the mind of Government when the proper time comes, and to receive very careful consideration, consideration which I hope will be assisted and enlightened by the views expressed to-day by non-official Members who have studied the matter. But for the moment the Government can come to no conclusion, they must maintain an open mind and reserve their judgment.

And now, Sir, I think it may be convenient to the House if I make a digression for the purpose of bringing before Honourable Members in a simple form certain especially relevant facts in the past history, both recent and remote, of the Indian Medical Service and in regard to the vicissitudes through which recruitment for that service has passed. The facts may be known to some Honourable Members who have studied the matter, but not, I feel sure, to all. For many years prior to 1915 admission to the Indian Medical Service was by open competitive examination held in England half-yearly. The examination was open to all British subjects, European and Indian. The last competitive examination was held in July 1915. In September 1914 the Secretary of State had suggested that, as it was extremely unlikely that suitable candidates would be obtainable, no examination should be held until July 1925. In 1915 the Secretary

of State decided that no open competitive examination would be held, after the one in July 1915, during the continuance of the War. Such recruitment as was necessary was to be made by nomination. The absence of candidates was due to the War. Large numbers of young medical practitioners and medical students joined His Majesty's forces in a professional or combatant capacity. There were other causes also and the influences which made it impracticable to hold a competitive examination during the War have continued to prevail after the War and up to the present day. These influences have indeed been further reinforced in the more recent past by a general sense of uncertainty as to what the future of the Indian Medical Service is to be. Between 1915 and 1919 all applications for permanent commissions under the system of nomination then in force were dealt with by the Secretary of State on the recommendation of a Selection Committee at the India Office. In 1919 a Selection Board was created in India consisting of the Director General of the Indian Medical Service, the Director of the Medical Service in India and two senior Indian officers of the Indian Medical Service. This Board scrutinises all the applications that are received from candidates in India, interviews candidates as may be necessary, and commissions are granted by the Secretary of State on the recommendation of the Selection Board submitted through the Government of India. European candidates are still dealt with by the Selection Board of the India Office. We have therefore arrived at a position in which a system of simultaneous selection in England and India has been adopted. But it is admittedly a temporary and make-shift expedient to be pursued only while recruitment for the Indian Medical Service is, for reasons beyond our control, on an unstable basis, and I think I may safely say that both the Government of India and the Secretary of State have always had it in mind to revert, as soon as opportunity offered, to what is I believe generally acknowledged to be the more satisfactory avenue of a competitive examination. Before leaving this brief review, I should like to mention that under the system of nomination 133 permanent commissions have been granted to Europeans and 119 to Indians. In military employment at the present moment we have 195 British and 79 Indian regular officers. In addition, we have 149 temporary officers, of whom 146 are Indians. I think it will be admitted that India can find little to complain of in the very significant figures which I have given, and I must add that I repudiate, as strongly as I possibly can, the suggestion that any of the Indian officers or that the Indian officers as a class who were recruited under the system of nomination and are now serving under His Excellency the Commander-in-Chief have proved to be inefficient or unsatisfactory.

Now, Sir, my digression has in natural course brought me face to face with that part of my Honourable Member's proposition which breaks new ground, in so far as the Indian Medical Service is concerned, and which is really the most important part of his Resolution. I am referring to the contention that admission to the Indian Medical Service should be not merely by competitive examination, but by competitive examination held simultaneously in England and India. The proposition is not a new one in so far as the other public services of the Indian administration are concerned. The principle on which it is based is familiar to us all. It amounts to this that all qualified persons should have opportunities equalised according to their circumstances of entering the public service, and I do not think that any one will wish to quarrel with the principle provided that in its application due care is taken to ensure that the taxpayer receives full value for his money. I must confess, however, speaking in the light of

past experience, that I am not entirely satisfied that, because the principle of simultaneous examination has been found suitable in the case of other public services, it will be equally appropriate to the Indian Medical Service or will commend itself in the same degree to intending Indian candidates for the Indian Medical Service. To me, at any rate, it is significant that hitherto in the case of the Indian Medical Service public opinion and the opinion of Indian members of the Service have not laid great stress on the introduction of simultaneous examinations. I believe one reason of this to be that young Indians who have a leaning towards the medical profession and are ambitious, have hitherto been glad and still are glad to go to England and acquire the professional qualifications given by the medical schools of the United Kingdom. I may perhaps have derived a wrong impression in regard to this matter, but I feel that I am right to some extent and that there must be something of substance in the point of view which I have advanced. And, if I am right, then a very important question arises, namely, whether the introduction of simultaneous examinations for the Indian Medical Service would really be in accordance with the wishes and the best interests of that type of Indian whom it is especially desirable to attract to the service. Then, Sir, I understand that if simultaneous examinations were adopted, it would be a matter of some difficulty to ensure that in both tests the same standard of qualifications should be observed. This is a difficulty which is far from insuperable in the case of examinations such as the Indian Civil Service, where the test is confined to book work and knowledge of theory. In the case of an examination for the medical profession, the matter is different. There are necessarily difficulties of a mechanical character, especially in regard to the practical part of the examination, which might make it hardly possible to assert that the candidates in India and the candidates in England had been judged by precisely the same standard. But, if uniformity of standard cannot be attained or nearly attained, the objection would be a serious one. The existence of two standards or even the existence of a suspicion that one set of candidates had been admitted by a wider portal than that which was open to others would, at the least, prejudice the solidarity of the service and affect its credit. I feel sure the House will recognise that there must be one standard only, even though there are two examinations and that that standard must be a very high one in the case of the Indian Medical Service. We may rest assured that this will be the view of high authority so long as officers of the Indian Medical Service continue to bear His Majesty's commissions. Actually, however, I am not quite sure what would be the details of the system of simultaneous examination which my Honourable friend would advocate, and the details are of great importance. For example, is it his view that no Indian should be allowed to appear for the examination held in England? If so, the result would presumably be to discourage Indians from going to England for a medical education, and I find it hard to believe that this would be good for the service and good for the country. On the other hand, difficulties would obviously arise if Indians were permitted to appear at both examinations. I do not, however, propose to examine these technical aspects of the matter at any greater length. I am not really competent to do so, whereas we have on the Government Benches to-day an acknowledged expert in these matters in the person of Colonel Needham. If he is fortunate enough to gain hearing in the course of the debate, he will, I feel sure, be able to contribute to our understanding of these difficult questions of technical detail and perhaps to a solution of them.

Now Sir, I do not want the House to think that I have been deliberately magnifying the obstacles which lie in the way of my friend's proposal. That is not my intention. But it would be idle to imagine that the change of policy advocated is a simple matter, and it is essential therefore to recognise the difficulties instead of ignoring them. In a word, to approach the subject from the practical standpoint. As I have explained to the House, Government are themselves not in a position at present to come to a conclusion on the subject, and my chief object in speaking has been to draw attention to those points on which fuller knowledge is required, in the hope that the further course of this debate may result in adding to our knowledge on these points and so assist Government's ultimate consideration of the matter.

**Sir P S Sivaswamy Aiyer** (Madras Nominated Non-Official)  
Sir, I was very glad to hear from the Honourable Mr Burdon that he did not intend to oppose this Resolution. I am thankful to him for the very frank and full statement he has made upon this subject. I wish to make just a few remarks in support of the Resolution which has been moved. The Resolution is an extremely reasonable and modest one and does not cover any controversial ground. It does not go into the question of a unified medical service or a dual medical service. We have been informed that His Majesty's Government are opposed to the constitution of a unified medical service, and it follows that there will be a medical service for the Army and that the Indian Medical Service will continue to exist in some form or other. I do not wish to quarrel with that position. The only question that is sought to be raised is that so long as the Indian Medical Service continues to exist, Indians shall be admitted to competitive examinations held in India just in the same way as in the case of the Indian Civil Service. It does not go into the question of proportion or any racial or other question which may perhaps be considered controversial. I would therefore suggest that in arriving at a final conclusion upon the subject this Government will recommend a liberal percentage—I hope at least fifty per cent, for recruitment in India. My friend Mr Burdon has dwelt upon the difficulties which are likely to be experienced in arriving at a unity of standard with regard to attainments. There may perhaps be certain difficulties to be encountered, but I am confident that those difficulties are not insuperable. The principle of simultaneous examinations, or rather of examinations both in India and in England, is not one of a novel character. It has already been applied to the Indian Civil Service, and expedients similar to those which have been adopted in the case of the Indian Civil Service can be applied for the purpose of solving the difficulties which have been brought to the notice of the House by Mr Burdon. By all means prescribe as high a standard as you like, but let Indians have an opportunity of competing in India for the Indian Medical Service. It may perhaps be felt to be desirable that there should be some course of training required after the competitive examination in India. We have no objection to that proposal. Just as in the case of the Indian Civil Service Indians are sent to England, let Indian recruits for the Indian Medical Service be sent to England for a period of one or two years as may be considered necessary by the Government of India and the Secretary of State, and let them be required to undergo a satisfactory course of training and examination. As regards the possible difficulty of arranging candidates in order of merit, the expedients adopted in the case of the Indian Civil Service

can be adopted in this case also I commend this Resolution, therefore, to the Government for acceptance

**Colonel R. A. Needham** (Government of India Nominated Official)  
 Sir, I desire to take up two aspects of the Resolution which naturally falls into two parts. The first is reintroduction of competitive examinations and the second is the introduction of an entirely new feature, that of a simultaneous competitive examination in England and in India. The first part of the Resolution which deals with the reintroduction of competitive examinations has been dealt with by the Honourable Mr Burdon. There is no reason to object in principle to the reintroduction of competition. In fact the position is this, that recruitment by competition is merely held in abeyance till we have settled conditions, and by settled conditions I would include settled conditions as to the Indian Medical Service. That service has suffered from a series of commissions and inquiries. For fifteen years statesmen, doctors, soldiers have sat on commissions and inquiries and no particular result has yet ensued. Till a month ago the existence of the Indian Medical Service as a separate entity was in doubt. How was it possible, therefore, that recruits, whether they came from England or India, should desire to join a service the future of which was in such grave jeopardy. Recruitment was impossible by competition in the ordinary way. I think Honourable Members will agree that that is not an overstatement of the position. We had perforce to fall back on nomination and that nomination is exercised with the greatest possible care. The papers of each candidate who applied for a permanent commission were scrutinised by a senior officer, two confidential reports were made on him, and the papers were then submitted to the Selection Board. Those who were selected on the paper reports were called to Delhi or Simla for a personal interview and were given a very fair trial. I have not heard comments as to the unfairness of the method of nomination, and I think it had its advantages because it was impossible to introduce any competition by examination if we were to consider the claims of temporary officers who were serving with the troops in the field.

Obviously we could not ask temporary officers to assemble in some centre of India and submit themselves to the ordeal of competitive examination in professional subjects after they had served three or four years with troops. So I think we should agree that selection by means of a competitive examination has been wisely postponed (*Mr B Das* "Very wisely"). And I think also it cannot be reintroduced till the future organisation of the Indian Medical Service is completed.

**Mr A. Rangaswami Iyengar** How long is that going to take ?

**Colonel R. A. Needham** The greatest stimulus that could be given to the Indian Medical Service would be the settlement of the future organisation, and I for one, speaking as a member of the Service, would welcome a speedy decision because at present we do not know where we are.

Now the second part of the Resolution is the more interesting one really to me because it introduces a new suggestion for simultaneous competitive examinations. That is quite a new feature so far as the admission to services which demand a practical examination is concerned. I know of no other instance where a practical examination has been held, of a

competitive type, when there have been two sets of examiners. The recruitment for the Indian Medical Service by examination in London in previous days consisted not of one examination, but of two, and perhaps Honorable Members would like to hear exactly how it was organised. It was divided into two parts, a preliminary and a final examination. The preliminary examination was held in the subjects of medicine, surgery, gynecology, pathology and so on and was of the nature of the final M. B. examination which my Honorable colleagues in the profession will understand. After that examination there was a second or final examination which was held after a course of four months at the R. A. M. C. college in London, and at Aldershot to which the successful candidates in the preliminary examination were sent. The successful candidates in the preliminary examination underwent a training in hygiene, tropical medicine, internal economy, drill, equitation and so on. The total marks of the preliminary and the final examination were then added together and the seniority list thus determined. I have not gathered whether the Honorable the Member quite understood that the examination for the Indian Medical Service was of such a complicated type. I am sure he will want, at all events, to retain the final examination, so his Resolution probably refers to the preliminary examination, and that he would hold simultaneously in England and in India.

**Dr K. G. Lohokare** Then you seem to have caught something of my meaning.

**Colonel R. A. Needham** Let us then deal with the preliminary examination. That consists of a theoretical and a practical part. The theoretical part has been dealt with by the Honorable Mr. Burdon and offers no insuperable difficulty. A competitive paper examination could be arranged, but as regards the practical part of the examination, I think there are really serious difficulties. The difficulties are of a technical type which I should like to try and explain to the House. A candidate has to appear in all the subjects before his examiner and he examines patients and material and is given a *viva voce* examination on the clinical and practical aspects of a case. Now if you have two sets of examiners allocating marks

**Dr K. G. Lohokare** I never suggested that

**Colonel R. A. Needham** I am merely describing a typical examination, if held in England and in India. If you have two sets of examiners allocating marks after a *viva voce* examination, how can you determine what is the relative merit of the candidates in two batches when there is no link or standard of comparison? It is not a question of whether a candidate should pass or fail, that is comparatively quite a simple matter. It is a question whether one examiner in India gives a candidate, say, 60 marks, and whether another examiner in England gives him 55 or 65, and that is a difficulty which I for one am quite unable to solve. It makes a great deal of difference in the total marks when applied to many practical subjects. After all if there are, say, 10 or 15 commissions and many candidates, a difference of five or ten or twenty marks determines whether a candidate should obtain a commission or not and also his seniority. I think therefore that every care should be taken in a matter of such great importance in the examination of candidates. I cannot say how strict comparison is practicable as between examinees in India and England.



There is another point, Sir, and that is in discussing the matter with Indian I M S officers, I find there is a definite view that they desire only one examination, or rather only one portal of entrance. They feel rather apprehensive that a separate examination in India may give rise to a feeling, however unjust, that the Indian and the European candidates are not being recruited exactly as on an equal footing.

**Pandit Shamlal Nehru** Why not hold the examination wholly in India?

**Colonel R. A. Needham** I am quite prepared to answer the question of the Honourable Member. I would sooner see an examination, as a matter of fairness, held entirely at one centre, but whether it is in India or in England, that is a point for the Secretary of State or this House if it has the power to decide. I am pleading now for one examination. I was hardly dealing with the question whether it should be held in India or in England. Indian officers of the Indian Medical Service feel that it is desirable that there should be only one portal of entry for the reasons I have just stated. They feel too that an examination, if it is held in England, will encourage officers to go to England for medical training and to obtain medical qualifications in England, and they consider that that is desirable too because they find the experience and training of the greatest possible advantage to them when they are serving with their European brother officers in any part of the Empire. These are matters sometimes regarded as those of sentiment, but I personally do not regard them as such. I think they are of the greatest importance, for I assume they are part of that feeling of *esprit de corps* which we all so desire to foster, and which, if maintained, would certainly add to the traditions of the great Indian Medical Service as it has existed, and I hope will continue to exist in the future. Therefore, Sir, for these reasons I cannot see why this House should accept a Resolution which lays a specific date to the reintroduction of a competitive examination system. Settlement of the organisation of the I M S should precede its introduction. Nor do I think it would be wise for the House, for the practical reasons I have given, to support a Resolution which introduces simultaneous competitive examinations in India and in England.

**Dr S. K. Datta** (Nominated Indian Christian) Sir, I did not mean to intervene in this debate but after hearing the speeches made on the Government side I begin to wonder whether we do not very greatly misjudge the Government. You almost begin to feel that the Director General on the heights of Simla awaits the Indian candidate with outstretched arms desiring him to enter the Indian Medical Service. With your permission Sir, may I go back even as Colonel Needham, on whose speech I think all of us would like to congratulate him, went back to the history of the Indian Medical Service. At the first examination of the Indian Medical Service held in 1855 the candidate who topped the list was an Indian, the late Surgeon Major Chuckerbatty, a man of very great and eminent attainments. In subsequent years a certain number of Indians did enter that service and particularly between 1900-1913 in increasing numbers, and yet you begin to find since Lord Morley's despatch (in 1908 I believe it was) regarding the Indian Medical Service, people began to ask themselves in England. What is the meaning of this? Are there going to be radical changes in the personnel of the service? What with Lord Morley, on the one hand, and on the other the rising popularity of

the R. A. M. C. itself, the best men were it was alleged going into that Service rather than into the Indian Medical Service, with the result that in 1913 Colonel Crawford (*An Honourable Member* "Our friend here?") I beg your pardon, this is not an anti-prohibition Resolution, Colonel Crawford, the historian of the Indian Medical Service, wrote after this manner

"The native of India, specially if he has not had the advantage of some training in Europe, is often wanting in a sense of duty and is very subject to the tyranny of caste and to social influences. Few Englishmen realise how great these influences are and how difficult, one might say how impossible, it is for any Indian, official or non official, to defy or thwart them."

This was written with regard to the future of the Indian Medical Service, in case there should be proposals to further Indianise that Service. He goes on to say

"From the third point of view, that of the members of the other Government services, the new scheme looks worst of all. That the members of the European services prefer a doctor of their own class for themselves and still more for their wives and families cannot be gainsaid. The preference may be sentimental—no doubt to a certain extent it is so—but it exists. And it has some reason too apart from sentiment. For the native practitioner, however skilled, is often apt to lose his head at a critical moment rather than to rise to a sense of responsibility."

Well, Sir, then came 1915 and we are told that owing to the war recruitment by selection became the only avenue to the service. Since then we have had two Commissions, rather three, which have reported on the Indian Medical Service. First came the Verney Lovett Committee which cut the Gordian knot and said in effect "We shall have a unified Indian Medical Corps here in India to look after and give medical aid to both British and Indian arms of the Service." That was followed by the recommendations of the Esher Committee. There again was another proposal to unify the Army Medical Services in India. That was to be the way in which the problem would be solved. But that was not accepted, and the next was also not accepted. We then come to the Lee Commission, and again its recommendations as far as we are aware are not yet accepted. At least we do not know how far it was accepted. Now in these transactions the parties concerned are not merely the people of India, whom we represent in this House, the Government of India and the Secretary of State, there is yet another force at play, and that is the British Medical Association, the strongest trades union in the British Empire. It is the British Medical Association—if you read the medical papers published in England in which there are constant references to the Indian Medical Service, you will understand why the India Office to us here appears to be paralyzed—it is representations by the organized profession in England to the Secretary of State, their appeals to the public, and the political influences that are at work which leads to this impotence. Now, Sir, I merely ask a question. With these influences there to incapacitate the Government of India or whoever is responsible for a decision regarding the future of the Service, is it surprising that we believe there is at work a certain Machiavellian intent, an intent to keep Indians out of the Service? I do not say that it is with this intent that the Government of India act. I would not impute to them any such motive. But ever since 1908 or say 1910 nobody seems to know what the future of the Indian Medical Service is going to be. At least Dr. Lohokare's Resolution has the merit of suggesting one method of entrance into that Service. I am not myself enamoured of a competitive examination in the sense of a simultaneous examination. I quite

see the professional difficulties of obtaining a unity of standard, I do not see how it can be done. On the other hand, we want a way out of the present situation. Is it a fact, Sir, that in 1922 there was a despatch from the Secretary of State which virtually instructed the Government of India to hold up free competition until the European wastage in the Service had been completely made up, and as a result of that—at least such is the impression created in our minds, we may be suspicious people but we cannot help it—in 1922, 1923 and 1924 no Indian entered the Medical Service? We want to know what is to be the future of the Service and I think Colonel Needham is with us there, he too desires to know what the future of the Service is to be. And I would urge on the Government to place before the Secretary of State the views of this House, to ask him to declare what the policy for the next ten years with regard to the Indian Medical Service is to be. That is what we want. Incidentally I might suggest that, instead of the simultaneous examination suggested by Dr Lohokare, why should not we have one examination in England and six months later hold another examination here in India for another set of candidates and thus to change from London to India the venue of the examination. We would thus have one standard for a particular number of people who will appear at a particular examination. I throw out that suggestion because I am not enamoured of this scheme for a simultaneous examination. As I have said before, I have no desire to impute motives. If the Government will frankly say they do not know but they are doing their best to open the way in the Indian Medical Service to Indians of capacity and merit and they will bring before us some scheme by which that can be done, I feel sure we will examine it with all the care possible and we will support them in their efforts to obtain from the Secretary of State—shall I say, to wrench from the Secretary of State—some sort of understanding regarding the future of the Service.

**Dr K G Lohokare** I would not take up much of the time of the House because I wish to reply only to one or two points that have been made. We have been told by my Honourable friend that public opinion is not very keen on this point. I repudiate that suggestion. Last year at the time of the Lee Commission Resolution I gave a list of nearly 22 associations and 30 or 40 public meetings and I ask him to refer to the telegrams which the Government of India received regarding simultaneous examinations for military service recruitment. The second point that was mentioned was in regard to the difficulty of the same standard of examination being maintained. I believe that the examination can be split up into two parts. There is already the Preliminary which can be divided into theoretical and practical, two parts, and then you have the Final. As regards the Final, well, the boys may go to England if you spend for it for training in the second part which is not available in India. As regards the first part, the theoretical, my Honourable friend opposite belonging to the profession agrees with me that there is no difficulty about it and that the question papers can be sent down. As regards the second part, the practical, I have put forth a suggestion here that the same set of examiners from England may come here for the sake of the examination. If you do not choose to do it here is another alternative of my Honourable friend, Dr Datta. There may be two examinations every six months one examination for one set of students in England and another for another set of students in India. That does not matter. You will then have the same examiners, the same standard

and everything will be all right. I repudiate the suggestion if you take me to say that there should be two different standards. Our claim is for a competitive examination, and consequently—I say—we have never claimed different standards for recruitment. We do not want that. We want an open door with the same standard. We want an open competitive examination, and however you may arrange it our candidates will always be successful. We do not want that a certain proportion should be laid down for Indians. That is our complaint. You will say some element of Indians may be taken. My complaint is against that. We want an open door.

Mr President. I would ask the Honourable Member to address the Chair. He has repeatedly been addressing the Treasury Benches.

Dr K G Lohokare. Sir, our contention is that the words "British medical recruits" have been unfairly inserted in the Resolution on the Lee Commission's recommendations. We fear that under cover of those words anything may be done. That is our suspicion, that a percentage, say, 10 or 15 or some larger percentage, may be laid down, and there is a suggestion to the effect in the Army Organisation Committee's report and in other places that because Indians had so far been appearing in small numbers 5 or 10 per cent might be reserved for them. I am afraid of such a reservation. That is the complaint that we make. We want the best doctors that the profession can produce. You may have any test you like. I am sure our Indian graduates will always come out successful however high the test may be. But my submission is that if you reserve only 10, 15 or 20 per cent for Indians, and that is our complaint—if you reserve so much for Europeans and so much for Indians, the European candidate, though he may get a smaller number of marks than the Indian, will still be selected and not the Indian. That is our suspicion. If you want for the treatment of the British services in India and their families that sort of material our purse is open, you can have that concession but let us come to terms regarding the question on the basis of this concession. If you want that British officers should be treated by British doctors only, all right let it be granted. But why do you interfere with our other jobs, why do you place obstacles in the way of the just aspirations of Indians? Why do you create obstacles in the way of the best doctors for the Army as well as for the other services? That is the question I want to put to the Honourable Member.

Our next contention is that you should not make it prohibitively expensive for an Indian graduate to compete in the examinations. You cannot expect a middle class man to spend Rs 5,000 to Rs 10,000 to go to England, by borrowing it somewhere, putting his father and other relations in debt and then repaying it. That sort of disability should not, I submit, be imposed on the Indian candidate. It is for this reason that we want an examination in India. Again, it was hinted at in the debate that Indians ask for English qualifications and that therefore an Indian without English qualifications may not be allowed to appear at the competitive examination. I distinctly refuse to have any such condition, since the Indian Colleges follow the requisite British standard. Even though English education may be preferred by some, is it available to all, to the ordinary middle class man? Take the son of a middle class man getting even Rs 200 or Rs 250. He goes to the medical college and takes a first class.

you shut him out because his father cannot afford to send him to England for that education? That is our complaint. You try to set aside the best material by this stratagem, by this device as it were. I have been in correspondence with all the Medical Associations in India. I have seen many eminent doctors in service as well as outside. I have seen leaders of the public as well as of the profession, and there is only one opinion, one conscientious opinion on this question, and there is no difference at all. And yet you say there is no public opinion! You look at the newspapers, you look at the telegrams that you have received, and still you are trying to set aside our best talent. That is our complaint. If you meet that complaint in a proper manner—in whatever way you decide—if it is not very objectionable—we may come to an agreement, but we say here that the difficulties that have been placed in our way make us point out a certain way by which the whole thing can be set right, and that is the gist of the Resolution which I hope this House will accept.

**Mr. E. Burdon.** Sir, I do not think the House will expect me to detain it by replying to the Honourable Mover in detail, and my own reason for not doing so must be that once more I find him to be distinctly irrelevant. He has talked about a great many things which are of great interest and were relevant in the discussion of the Lee Commission's report which took place in September 1924.

**Dr. K. G. Lohokare.** These are the causes for this Resolution.

**Mr. E. Burdon.** But I submit that they are extraneous to the discussion in which we are at present engaged. My Honourable friend Diwan Bahadur Rangachariar asked certain questions.

As regards the first, I am not really in a position to state what particular difficulties the Secretary of State is finding in coming to a conclusion. As a matter of fact the whole matter is an extremely complicated one, and actually it has not been before the Secretary of State for any very great length of time. It is actively under his consideration at the present moment as I think my Honourable friend will have seen from the report of Lord Birkenhead's speech in the House of Lords. Lord Birkenhead himself said that the whole matter was being actively examined in his office. My Honourable friend's second question was whether there was not some practical examination, say, in Science conducted simultaneously in connection with admission to some of the other services. I understand that the answer is in the negative, that there is no simultaneous examination of a practical character in force, in regard to the other services which would in any sense be comparable with the practical examination of the Indian Medical Service. As regards the question whether Col. Needham considers whether he could solve the difficulties if he were given a free hand to do so, well, Sir, I do not suppose Col. Needham would be prepared to answer that question even if he had another opportunity of speaking, and as he will have no other opportunity the question must remain unanswered. There is only one further matter to which I wish to refer and that is with regard to what my Honourable friend Dr. Datta has said. He expressed the hope that Government would communicate to the Secretary of State the views expressed by this House in regard to what all admit to be an exceedingly difficult and important matter. I can assure him that I shall take steps to bring to-day's debate prominently to the notice of the

Secretary of State (*Dr S K Datta* "Are you sure he will reply"?) That is another matter. Now, Sir, there is nothing of substance that I can add to this discussion. I must however reiterate the statement that I made in my opening speech, namely, the attitude of Government is that they do not wish to oppose this Resolution if their position is to be construed as a final expression of their views in regard to simultaneous examinations because that would not be a correct conclusion. On the other hand, they cannot accept the Resolution as it stands, and more particularly, as I think my Honourable friend Col Needham emphasised, they cannot accept it because it seeks to tie us down to the year 1926 as the date on which the change of policy should be introduced. I therefore oppose the Resolution.

**Mr President** The question is

"That the following Resolution be adopted

'This Assembly recommends to the Governor General in Council that he be pleased to take immediate steps to arrange that all further recruitments to the Indian Medical Service—India Army Medical Cadre—shall henceforth be only by an open competitive examination held simultaneously in England and India from the year 1926',"

The motion was adopted by 55 vote against 42

*Wednesday 16th September 1925*

**RESOLUTION *RE* SUSPENSION OF THE COLLECTION OF THE COTTON EXCISE DUTY FOR THE REST OF THE CURRENT YEAR, 1925-26**

Mr President In connection with the next Resolution that I will just ask Sir Purshotamdas Thakurdas to move, I desire to make one observation It is this 'The question of the abolition of the excise duty has been discussed in this House more than once during the course of the last 12 months and if this Resolution had anything to do with that general question I should not have admitted it, but because it raises a narrow issue, namely, of suspension of the excise duty for this particular year owing to peculiar circumstances of the textile industry in Bombay, I have admitted it, and I want Honourable Members to bear this in mind in discussing this Resolution The remarks they make should be strictly confined to that narrow issue alone and not to the general question of the abolition of the duty

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber Indian Commerce) Sir, I rise to move

"That this Assembly recommends to the Governor General in Council to be pleased to forthwith suspend the collection of the cotton excise duty for the rest of the current year 1925-26 in view of the critical stage of the Indian textile industry as at present prevailing"

The injunction, Sir, that you now enunciated for our guidance is to my mind most opportune I am aware that the question of the abolition of the cotton excise duty was discussed by this House almost a year back and was again discussed last March when the necessary demand for collection of this duty was refused by this House by a substantial majority But since then, Sir, His Excellency the Viceroy has been pleased to restore the grant and the collection of the excise duty is continued till now as before The question therefore, Sir, of again recommending to the Governor General in Council to desist from collecting the excise duty for the remaining period of the current year is one which to my mind ought to specially appeal to this House It is a part of the idea which led them to refuse the demand of the grant for the whole of the year I hope to be able in the course of my remarks hereafter to submit a few of the reasons why this House should recommend to the Governor General to suspend collection of this duty at least from now onwards for the balance of the year that is now left

When, Sir, we asked in March last that the excise duty be abolished, we based our claim on the several pledges of the Government of India that the excise duty would be removed as soon as feasible or, to put it in other words, as soon as finances permit I feel that those who pressed the Government then to abolish the excise duty exercised considerable foresight At that time it was contended that only mills in Bombay were either losing or just making both ends meet I was reminded, if I mistake not by my Honourable friend the Commerce Member, that mills in Ahmedabad were doing better The crisis which some people in Bombay interested in the textile industry had the foresight to see unmistakably has, Sir, travelled to Ahmedabad I feel that the question may be raised why only the millowners from Ahmedabad and Bombay chose to wait on His Excellency the Viceroy and they did not include amongst them millowners from Cawnpore I do not know if the Millowners' Associations of Ahmedabad and of Bombay did ask their fellow-brethren in Cawnpore to join them or not,

but if this present plight of the industry is allowed to continue without any assistance from the Government of India, where they can give very substantial assistance to stem the tide, I feel that it may not be many months before Cawnpore, Madras and other parts of India, which have cotton mills, feel the pinch unmistakably. But, Sir, the mills in Cawnpore have a special advantage over the mills in other parts of India, especially in the Bombay Presidency. Being perhaps nearer to the headquarters of the Government of India, they have the best and the largest custom of the Government of India and it is possible that, owing to this, orders are on their books, and owing to the prospect of these orders continuing, they may not feel the pinch which the average mill in the Bombay Presidency feels by having to dispose of its wares in the open market.

Sir, I, as representing my constituency, appreciate this privilege which the ballot box has given me of drawing again the attention of the Government of India to the growing serious condition of the Indian textile industry and I only hope that my appeal will not fall on deaf ears or on unsympathetic ears.

In his replies to several questions in this House the Honourable the Commerce Member referred Honourable Members to two things, either to the reply given by His Excellency the Viceroy to the deputation which waited on him last month or to the debate on the motion for adjournment in the Bombay Council in connection with the critical condition of the textile industry. I propose, Sir, to take a few of the salient points on which His Excellency the Viceroy depended for his refusal to the millowners' deputation to do anything at present in connection with the removal of the cotton excise duty. I do not overlook that the main object and request of that deputation, Sir, were not the suspension of the excise duty but its abolition. His Excellency the Viceroy said that he fully realised that the cotton industry was "one of the greatest and certainly the most typical Indian industry in India." With that description of that industry we would all agree. He further admitted

"That the Government of India are pledged to abolish the excise duty as soon as financial considerations permitted."

He proceeded

"We stand by the letter and spirit of that pledge. The excise duty must go and I do not propose at this stage to occupy time by discussing whether or not it can be theoretically justified."

That confirmation of the several pledges given by previous Viceroys and Finance Ministers, I take it, strengthens my hand in the appeal that I extend to the Treasury Benches to-day. His Excellency proceeded, Sir, to take a brief survey of the textile industry and reminded the deputation

"That the industry was passing through a crisis which was common to the textile industry of the whole world."

He said

"There must be some general causes at work" and he concluded

"The price of cloth is still out of relation to the prices of other commodities"

He finally said that with a lower price for cotton he expected that cheaper cloth would be available to the consumer and by inference I conclude that he hoped that then the industry will begin to experience normal times. But in the following paragraph, Sir, he referred to w<sup>h</sup>



he called the particular problem of the textile industry in India. He said

“ The result has been an increase in the production of cloth ”

He also pointed out that imports, though they are still below the pre-war level, are beginning to revive and that he found that last year the total amount of cloth offered for sale in India, inclusive of the estimated production of the handlooms, was very nearly up to the pre-war level. In fact, my inference from that part of his reply was that India, according to His Excellency the Viceroy, was producing more than before the war and hence the present difficulty. I wish to pause here for a moment if I may, to put another construction which I think can very safely be put on these words. Before the war, or rather during the war, when the Commerce Department had a Committee which was called the Standard Cloth Committee, I remember, Sir, that the figures put before us were that about 45 to 48 per cent of the total consumption of cloth was manufactured in India. It is natural that during the war, in common with other countries especially Japan, we have had an increase in our looms and spindles in the cotton mills. But we are still very far from reaching anything like even the 75 or 80 per cent of the requirements of India that we ought to produce and that we can produce in this country with cotton at our very doors—surplus cotton which we must export—and with trained labour of a certain standard also available to us. I am therefore rather disappointed that His Excellency the Viceroy should have thought that the blame for the present crisis should be that we are progressing in the direction of making India self-reliant and independent of imports from outside. I do not venture to say whether His Excellency really meant to criticise this activity of India. But I wish to point out that, if we are increasing our local production and if, owing to various world factors, it is found that there is a certain depression in the trade which is common all over the world, the relief that should be given by any Government which can be said to be either a paternal or real Government in the interests of the people would be to see if the imports which are being dumped in this market or are really hitting the genuine production of this country should not be prevented from doing so. But this, again, Sir, is a very broad and a very wide subject, perhaps a debatable one. I only wish to refer to it. I do not wish to follow it up because it is not necessary for the purpose of my Resolution before the House.

His Excellency next went on to the question of remedies and he said

“ I recognise, therefore, the force of your appeal. I do not think—nor, unless I am much mistaken, do you claim—that the abolition of the cotton excise duty is all that is necessary to restore the industry to health. But your plea is that even a reduction of 9 pies per pound in the cost of production will give some relief to the industry ”

I personally, Sir, very much appreciate the anxiety of His Excellency the Viceroy to ensure that, when a deputation waits on His Excellency, the relief that should be available to that industry should be such as will be far-reaching, thorough-going and not half-hearted. But, Sir, the deputation simply went to pray that the handicap which was put on the industry, not at the request of the Government of India but absolutely against the wishes of the Government of India and at the dictation of what to-day either rightly or wrongly but certainly is looked upon as a competitor of the Indian mills, namely, Lancashire, should first be abolished. I feel, Sir, that His Excellency the Viceroy absolutely meant

What he said when he expressed his anxiety that the relief to the industry should be more than the mere abolition of the excise duty. But it is difficult to understand why, when His Excellency's intentions were so good and so beneficial to the industry, His Excellency desisted from agreeing to what, indeed, he could and, I submit, he should have complied with. With that part, Sir, His Excellency dealt in the following sentences. With your permission, I will read three or four of these sentences.

"As I have said, I recognise the strength of this plea and I and my Government have again considered most carefully whether we could not meet you in this matter. It is with real regret that I have to inform you that we have come to the conclusion that we cannot grant the request. I hardly think, indeed, that you have realised what that request means. You ask us to take action now in the middle of the financial year before the year has fully declared itself and before the commitments and the prospects of next year are fully known. You suggest that at a time of this uncertainty the Government should remit a source of revenue which brings us in Rs 2 crores. It is only in the most exceptional circumstance, exceptional to a degree which it is difficult to envisage, that a Government would be justified in adopting such a course. The time for taking stock of prospects is the time of the preparation of the Budget. Then and then only can a proper estimate be made of future prospects of revenue and charges. This decision indicates no lack of sympathy with the industry, no want of will to help it in its difficulties and no lack of desire to see the removal of the excise duty. As you have been told again, we are pledged to take the excise duty off and we will take it off as soon as financial considerations permit."

I hope, Sir, to place a few more facts before the House to-day why the Government of India should take action in the middle of the year and why it is incumbent on the Government of India, if they really wish well, not only to those engaged in the industry but to the whole of the trade in those parts where this industry is the most important occupation of the citizens, to accept this Resolution. The extra duty, Sir, works out not to  $3\frac{1}{2}$  per cent as it originally did and was meant to, but it works out to-day to something like  $8\frac{3}{4}$  per cent of the cost of production of the Indian mills. I will explain it very fully to the Honourable the Commerce Member. I shall read now from a part of the address to His Excellency the Viceroy. It runs as follows.

"When the Honourable the Finance Member met the Millowners' Association on the 2nd July, he was given details of the incidence of this  $3\frac{1}{2}$  per cent excise duty on our industry. At present this excise duty represents on an average three fourths of an anna per pound of cloth as compared with a little over one quarter of an anna per pound in 1913. The reason for this is that the prices of cloth have considerably increased owing to the increased price of cotton, coal, stores, increased taxation, higher wages, shorter hours of labour and heavier interest charges. It may interest Your Excellency to know that locally made shirtings which were sold in 1913 at about 8 annas per pound now cost 18 annas per pound to produce due to the high price of cotton. The result is that the Government of India are collecting  $2\frac{1}{2}$  times more duty than in 1914 owing to the increase in the price of raw cotton and other charges in the manufacture of cloth. If the prices had remained the same as in 1914 the collection from the excise duty would not have been more than 90 lakhs instead of 210 lakhs as now collected by the Government of India. The injustice of this duty is that the Government of India benefits from the increased cost of production and the levy of import duties on machinery stores and accessories which up to 1914 were admitted free, a position which it is submitted cannot under any circumstances be described as either equitable or fair. The excise duty represents about  $8\frac{3}{4}$  per cent of the cost of our production, i.e., after omitting cost of the raw material."

Now, Sir, owing to the world conditions referred to by His Excellency, the Viceroy, thanks perhaps to the policy of the Finance Member of controlling prices in this country, partly perhaps due to his policy of contraction of currency in the country, the result, Sir, to-day is that the buying power of the Indian people is considerably reduced. My Honourable friend questions that. I will not give him my opinion, which he may not value.

**The Honourable Sir Basil Blackett** (Finance Member) Give me the Bombay Millowners' opinion

**Sir Purshotamdas Thakurdas** . No, but I will give him what Barclay's *Bank Weekly Bulletin*, dated July 1925, says under the heading "India"

"In both countries"—that is, *Japan and India*—"the output has been stimulated by the fact that as the prices of Indian food grains have not risen proportionately to the general increase in the cost of living, the purchasing power of the Indian cultivator has been adversely affected"—I hope the Honourable Finance Member recognises who the Editor is—"and therefore he has been buying a larger quantity of Indian and Japanese textiles and less of the finer but more expensive productions of the Lancashire mills"

The Editor is pointing out why Lancashire's exports to India do not have as ready a market as they want. I quote them for the purpose of showing that the buying power of the people has been admitted to be considerably reduced

**The Honourable Sir Basil Blackett** You said that it had been reduced by certain actions of the Government. It does not say anything of the sort

**Sir Purshotamdas Thakurdas** Well, I will then read from the beginning. It says

"In considering India's trade figures, it should be remembered that, in general, Indian prices have remained comparatively stable during the past year, and, in fact, since the Armistice, have shown less variation than gold prices, this greater stability, as pointed out by the Finance Minister in introducing the Indian Budget at the end of February last, having been influenced by the Government's policy in regard to the exchange"

Does that now connect the two?

**The Honourable Sir Basil Blackett** I do not think it does

**Sir Purshotamdas Thakurdas** May I pass this journal on to you?

**The Honourable Sir Basil Blackett** I have seen it

**The Honourable Sir Purshotamdas Thakurdas** . Now, Sir, owing to this—this is the fourth monsoon that the country is passing through, and at least the past three monsoons have been, if not good, fairly normal—and in spite of the three normal monsoons, the buying power of the Indian people has been so much reduced that to-day of the locally manufactured goods twelve crores worth of piecegoods are lying in Bombay and Ahmedabad alone, awaiting buyers. The mills find that compared with the prices of cotton and with the other charges they have to pay, they cannot make both ends meet, but they are dropping money. In Bombay 11,500 labourers have been thrown out of employment, owing to five mills having closed down. Four mills have given notice of closing down, and these four mills when they close down will throw out of employment 8,000 more hands. In Ahmedabad two mills have closed down, and six mills are reported to be on the market for sale. Further, Sir, we got news yesterday of a strike in Bombay, affecting 12 mills, and which means that very nearly 12,000 more people will be out of employment. Putting the figure at the lowest, 30,000 mill hands are out of employment to-day, owing to either the closing down of mills or owing to mill hands having gone on strike. My Honourable friend over there, who is so much interested in labour asks a question regarding wages. Under these extremely difficult circumstances, and finding in the Government of India a government which has a heart

of steel and very difficult to move, a government which in spite of the unanimous opinion of this House, as far as the non-official element was concerned, restored the grant which would have enabled them to collect the excise duty, the millowners said to the labourers, " We must either cut down wages or close the mills " I am sure even my two energetic friends of labour in this House will admit that millowners have not done it out of sheer fun or avoidably They made it abundantly clear that if they got the relief to which they were entitled from the Government of India, and which indeed is being kept back from them in a manner which in their eyes is absolutely unjustifiable, they would forthwith restore this cut

**Mr Chaman Lall** Will the Honourable Member tell this House the number of mills, or the proportion of mills which are not working at a loss to-day ?

**Sir Purshotamdas Thakurdas** The number of mills not working at a loss to-day is approximately given to me as about 25 I propose to go on the figures I have from the Honourable representative of the Millowners Association It is possible that the information of my friend here may vary a little, but the point is whether at this juncture, when the majority of the mills find themselves absolutely in an impossible position to carry on operations, and have to close down, whether this House should not again recommend to the Governor General in Council that he should suspend the recovery of the excise duty for the balance of this year

**Sir, His Excellency the Viceroy** said in his speech with regard to the decision not to do anything at present

" The decision merely illustrates that prudence which it is incumbent on every government to exercise in relation to its finances "

With all due respect to His Excellency the Viceroy, I submit that the real dictates of prudence at this juncture is not that the Government should take an over-cautious view, but that the Government of India should extend their assistance at this very juncture I am sure, Sir, that it will be admitted that prudence needs that prevention be regarded as better than cure When the coal grading Select Committee Report was before this House, I pointed out to the Commerce Member that that was one instance where the Government of India would do nothing or very little indeed when the trade pleaded with them to take some preventive measures and stop further rot setting into the coal trade The Honourable Commerce Member said we were then passing through the war period What is the result ? Whilst the Government of India did not heed what an important section of the trade wanted, they had to come out with a costly curative measure, a measure which may help the industry but which would take long to place the industry on the basis it was

**The Honourable Sir Charles Innes** (Commerce Member) May I rise to a point of explanation ? It would not be relevant to discuss the point the Honourable Member is now making, but I have not the least idea what he is talking about in saying we did not agree to the important suggestion made by an important section of the trade

**Sir Purshotamdas Thakurdas** Wagon supply to the coal trade, and especially to those Indian-owned mines The Honourable the

Commerce Member cannot forget that quite so lightly. However, Sir, I trust that to-day, although it may be fairly late, it is not too late for the Government of India to extend to the cotton industry, which is admitted on all hands to be in a critical position, the help which I think is their birthright. The only question, Sir, is about finances. His Excellency the Viceroy said, when finances permit, the excise duty would be taken off. His Excellency the Viceroy said further that in the middle of a year you cannot find out where you stand in your finances. I, Sir, have had the painful duty of pointing out at the last budget time that the financial position of the Government of India had not only been strengthened adequately, but had, in my humble opinion, been strengthened beyond a point which was either necessary or justified, looking at the interests of the tax-payer in India. I pointed out that during the two years preceding the last the Honourable the Finance Member had set aside 11 crores to debt redemption. I do not include in this the 10 crores which this Assembly has voluntarily foregone by agreeing to the separation of the Railway Budget from the General Budget. If you add those two together, during these years Government have set aside rupees 21 crores. I do not object to either of these, but I do not think it lies in the mouth either of the Government of India or the Honourable the Finance Member to say, when it is a question of helping an important industry, an industry the importance of which has been admitted by His Excellency the Viceroy himself in such eloquent terms, that you have not got the finances. When we were discussing a few days back the Resolution regarding the liquor excise policy of the Government of India, my Honourable friend the Finance Member, very correctly, as soon as he got up, assured the House that he was not going to plead that the large revenues that the various Governments in India at present receive from liquor excise should deter the Government of India from following the right policy. He put the embarrassing financial aspect of the liquor excise question in the background. I had hoped that what happened in the case of the liquor excise policy, was also going to happen in the cotton excise.

The Honourable Sir Basil Blackett. Why do not the cotton mill-owners put the financial question in the background?

Sir Purshotamdas Thakurdas. I do hope the Honourable the Finance Member realises the difference between the two, it is a great pity if he does not at this stage even. Both the sources of revenue, Sir, are not a credit to the Government of India. In fact, Sir, in the case of the cotton excise duty it has been said before now that that source of revenue is a humiliation to the Government of India.

Mr President. I would remind the Honourable Member of his time limit.

Sir Purshotamdas Thakurdas. I will finish in five minutes more. I wish, Sir, to indicate very briefly the various directions in which the policy of the Government of India in the Finance Department is such as never to make the cotton excise duty likely to be removed if it is left at what it is, namely, when the Government of India choose to find the funds. Take, Sir, the question of the opium policy. I have here a reply given in the Council of State by the Honourable the Secretary of the Finance Department stating that a Committee of the League of Nations which is to visit India shortly would be allowed to examine the

whole situation, and the Government of India would consider the stoppage of the export of opium to any country which abused the imported opium and let it drift into illicit channels and did not keep it confined to medicinal purposes. I do not quarrel with that decision, Sir, but what I wish to point out is that if you do all this for foreign countries, if you are prepared to sacrifice the revenues of the Government of India for the purpose of inhabitants of foreign countries, have we not the first claim, cannot we ask you to redeem your promise, and cannot we at this critical juncture come to you and say, help us over the balance of the current year? Next, Sir, is the question of the revenue and capital debts, a question on which this House recorded its opinion yesterday very adequately. There, Sir, is the question of the policy of the Government of India in connection with all matters where capital expenditure is concerned. There, Sir, the policy followed has been an extra conservative policy of debiting all expenditure incurred in raising a long term loan to the revenue one or two years, and the result is that the surplus that we see is limited, in fact it depends upon what the Finance Member agrees to show us. It was only yesterday that this House agreed to a debit of 50 lakhs of rupees, for what, Sir? For payment of opium grown last year. It is not a revenue expenditure at all, still it is debited to revenue. There is the opium against it, whenever you sell that opium you realise its worth. In ordinary commercial firms and institutions, Sir, such outlay would be debited either to the opium account or suspense account. The Government of India take it out of a year's revenue and debit it to the revenue account. In this way I could go on multiplying the various methods in which the Government of India can make the money available if only they choose to do so. It only amounts to this, do the Government of India really mean to give relief, and I am sure if they do, with the 11 crores they set aside for debt redemption, and the 10 crores they set aside by the separation of the two Budgets, it does not lie in their mouths to say finance has come in their way. At this rate the money required for the abolition of the excise duty may never be available. I am looking forward to the Finance Member putting before us the actuals of last year which he said yesterday he would be able to give the House today. I claim the actuals of last year may perhaps be such as to permit him to give us this relief. The only question now is, will the Government of India act, when there is still time, according to all the advices they have received, or will they try to lock the door after the steed has flown? I cannot help feeling that if, in spite of the various critical stages through which the industry is passing the Government of India plead that the state of the finances of the country do not permit them to give us this temporary relief for which we ask, it may still be possible that the Government of India in this matter are not free agents and have not got their *hookum* from the India Office. In conclusion, I wish to remind the Government of India of one thing. In Egypt the excise duty was abolished only when a national Government was established. We here in this House and the Indian public in general have been clamouring for an advance over the present state of reforms. It was my painful duty to put before the House why the commercial community were dissatisfied with the Government as it exists at present. If the excise duty, Sir, is not to be suspended even for six months in circumstances like these which I have mentioned—and I am afraid I have done bare justice to the very severe crisis which is looming in the future

for the cotton industry—if the cotton excise duty is not to be suspended even under these circumstances, the only conclusion one can come to is that it may only be a national Government that can give us what is due to us. I move my Resolution.

**Rev Dr E M Macphail** (Madras European) I feel in some difficulty this afternoon in connection with this motion because I have all along disapproved of the cotton excise (*Honourable Members* "Speak up") I came out to India in the good old days when there were no import duties and no income-tax and the rupee was over 1s 6d. I remember quite well the time when the cotton duties were first spoken of. The Government at Home would not allow the Government here to charge duties upon cotton at all. I think it was in 1893 when Lord Wolverhampton, then Sir Henry Fowler, was Secretary of State for India—I think it was then that the Government were allowed to bring in the cotton duties on condition that they put a countervailing excise duty on higher counts. If I remember aright, that was the time. Later on the Government here were allowed to raise the cotton duty without a corresponding countervailing duty being put on. Consequently now the tax is one purely for revenue. It is now not really a countervailing duty to any extent at all. Now, what I disapproved of in regard to the imposition of that tax was this. Though I was a free trader, I felt it was not right for the Government at Home under pressure from certain members of a political party in Parliament, representing a particular industrial interest, to compel people to accept free trade who do not want it. That was the feeling I had at the time, and the lesson I draw from that is that it is extremely undesirable to mix up industry and politics. I think it is one of the great dangers, if you adopt a protective policy in this country, that you will have any amount of log-rolling and that people in different industries will combine for the purpose of getting as much out of the national exchequer, and ultimately from the consumer, as possible. Another point to which I should like to draw the attention of Sir Purshotamdas Thakurdas is the fact that the reason why this cotton duty had to be imposed and why the excise was imposed was the fall in exchange. As exchange came down, the Government of India had more and more to get revenue from other sources and the only way that it was able to get revenue was by putting on import duties and raising these from time to time as the rupee kept falling. The rupee went on as you know, falling until the mints were closed in 1893. From that time somehow or other 1s 4d has come to be regarded by some as a sacred number. I do not mean to detain the House, but what I want to say in connection with my difficulties is that while I wish to see this excise duty go I want to know where the money is going to come from, that we are to get in Madras. I have learnt since I came to this House that every province must look after its own interests. Now we in Madras feel very strongly that we have been very hardly used. We protested against the Meston Award unanimously in the Legislative Council.

**Mr N M Joshi** You got a lot of money last year.

**Rev Dr E M Macphail** Not nearly so much as we ought to have got. We protested against the original Meston Award saying that we had been treated unfairly even then. But we have only received a mere fraction of what was awarded and we consider in Madras that we have been the milch cow for the rest of India. I find that my Honourable friend Mr Dumasia approves of this because he says "Get it if you can."

even by stealing " We in Madras do not want to be robbed in order that the Bombay mill-owners or that other mill-owners may make something more Now, I should be much happier in my mind when voting for this Resolution if I were quite sure that things were so very bad as they are represented to be We have not yet felt the pinch in Madras

**Mr N M Dumasia** You are very happy there

**Rev Dr E M Macphail** We are very happy there in Madras. We have not yet felt the pinch Sir Purshotamdas Thakurdas prophesied that it is coming I hope that he is a false prophet What I do feel is that until we know where we are going to get the money from, I am inclined not to support this motion, although I am strongly in favour of getting rid of the cotton excise as soon as we can The constant way in which people ask Government to remit taxes without telling them how they are going to get the money reminds me of what a friend of mine, who was a student along with me, told me

**Pandit Shamlal Nehru** Put a heavy duty on foreign liquor

**Rev Dr E M. Macphail** He had to write a discourse which was supposed to be of a popular nature and when he read it, the professor objected to the expression "concrete illustration" and said that it was not one which would be understood by the common man in the Church Then the professor went on to say "I would say" and he paused He went "I would say, I would say something else" and that was the amount of help he gave to the student He was not able to supply any other term which the student could use in place of the term that had been criticised Now, until some one shows me, unless I can get some assurance, that we in Madras are not going to be deprived of what we have received so far, I shall not vote for this Resolution with any great enthusiasm, although I confess that all my instincts are in the direction of supporting the proposition that has been brought forward by Sir Purshotamdas Thakurdas

**Mr N M Joshi** (Nominated Labour Interests) On account of the difficult position in which the mill industry as well as the workers in the mill industry find themselves to-day, I ask for your indulgence, Sir, and I ask for the indulgence of this House when I make a few remarks on this subject At the very outset I express my approval of the Resolution which the Honourable Member for the Indian Merchants Chamber and Bureau has moved, but, Sir, although I approve of his Resolution I do not approve of the diagnosis of the situation which he has placed before this House In the first place I do not think he has placed before this House the real causes and the most important causes of the present situation and in the second place I do not think the remedies which the millowners in Bombay have taken to meet this situation are also the right remedies which they ought to have taken It has been said that the present situation in the Bombay mill industry is due to the cotton excise duty I have made it clear that I am against the cotton excise duty, but Sir I do not know how if the cotton excise duty did not exist and if the import duty did not bear eleven per cent, but was  $7\frac{1}{2}$  per cent there would have been a difference in the present situation to-day After all therefore the cotton excise duty is not the sole cause of the present situation in the mill industry Then, Sir, much was made of the Japanese competition. As a matter of fact recently at Geneva I initiated a discussion on the labour conditions in India and the labour conditions in Japan and the inter-



the two But, Sir, I believe people exaggerate the effect of the Japanese competition If in certain respects labour conditions in Japan are worse than those in India, in certain other respects the labour conditions are much better If the Japanese mills work longer hours than in India, Japanese wages are nearly double our wages So naturally our industrialists here have got some advantage And moreover what is the Japanese competition after all ? Japan imports into India not even two per cent of the yarn which we produce here Japan imports into India not more than 5 per cent of the cloth we produce here After all this Japanese competition is not therefore a very appreciable cause of the present situation of the mill industry in India The same thing holds good about exchange The present high exchange is not favourable to certain industries in India but at the same time the high exchange gives certain advantages to some other trades Therefore when we mention these causes we must really go into the root of this question and make inquiries and find out how far these causes have really brought about the present position in the mill industry and the first and foremost is the very system on which the mill industry in Bombay and certain other trades is based It is the agency system Mr Dumasia said that there is nothing wrong in the agency system which has been working for a number of years

**Mr N M Dumasia** . I did not say so

**Mr N M Joshi** I am glad to hear that he did not say so Here is a system in which a man becomes the chief man in the cotton industry simply because he is born of his father Though he may not be fit for it, he becomes the real manager of the concern Mr Dumasia says that they have got expert managers There may be expert managements, but who controls them ? The son of an agent becomes the controller simply because he is the son of his father Then, Sir, there is another evil in this agency system The agent is the really responsible man for the management of a concern But he gets his commission on the production irrespective of the fact that he mismanages the concern Now this system of the agent's commission being based on production is a very wrong system If there is any man in the concern who should take the responsibility, it is he, but he shirks the responsibility, he takes his commission on the production while, when there are losses it is the wage earners in the industry who are made responsible for the losses

**Mr Kasturbhai Lalbhai** May I know, Sir, how many mills take their commission on production ? Does the Honourable Member know that ?

**Mr N M Joshi** . I know there are agents who are receiving commission on production I challenge my Honourable friend to say that there are no mills working on this basis

**Mr Kasturbhai Lalbhai** I definitely say, Sir, that there are not more than two or three mills out of 84 mills in Bombay which take their commission on production ( *In Honourable Member* ' only a couple ' ) ( *Other Honourable Members* Withdraw withdraw ' )

**Mr N M Joshi** Sir, I am not going to withdraw The present situation has arisen out of the past You must remember that—the present situation is due to your past conduct ( *In Honourable Member* " What logic ? " )

Then Sir, there are other difficulties in the present situation—for instance the overhead charge A large number of mills in Bombay

are employing now a too highly paid European staff, although the industry has existed for more than fifty years. As long as you employ such highly-paid European staff, certainly you will make some losses. We talk of Indianization, Sir, as far as the Government Departments are concerned. But what about the Indianization of the industry which is mainly Indian?

**Sir Purshotamdas Thakurdas** I am sorry to interrupt the Honourable Member, but I must warn him that he is giving a very misleading picture here. If there is any industry where Indianization has been carried out, it is in the cotton mills of Bombay and Ahmedabad.

**Mr N M Joshi** I also know much about many factories in Bombay, and I can say this, that I know full well one firm which manages about 12 factories to-day, and I know that at least 11 of them have European managers. Therefore, your overhead charges are very large. Reduce them.

**Sir Purshotamdas Thakurdas** What is the percentage of these to the total mills now?

**Mr N M Joshi** I cannot say offhand. But many mill-owners have admitted that their machinery has grown old—they made huge profits during the war and are closing their mills now. The situation is due to the fact that they were not prudent. They did not save money to renew machinery. There were several factors, for instance, over-capitalization. A mill which was worth about 6 lakhs before the war was sold for 35 lakhs, and now that the company is not prosperous—I do not want to give any names—the mill has to pay interest charges on 35 lakhs. Another mill worth about 25 lakhs before the war was sold for Rs. 1 crore and 50 lakhs. Another mill worth 3 lakhs was sold for 60 lakhs. Now they have to bear heavy interest charges. Certainly this is a matter which requires to be inquired into. Then, Sir, the mill industry made huge profits during the war amounting to 36 crores. What did the millowners do to create an industry for making their own mill stores? Nothing. They talk of Swadeshim and protecting our industries. With 36 crores of rupees in their hands I am quite sure they should have been able to make all their stores in India. I will ask another question. After all, if the Japanese compete with us and if the English compete with us, their labour is trained. What have the Bombay millowners done to train their labour? There is only one college, the Victoria Technical Institute. Who attend that college? The sons of people who want their sons to become weaving masters and spinning masters and managers. What has the Bombay mill industry done to train the ordinary millhand? You go to England and see what is being done there.

**Pandit Shamlal Nehru** What have you done?

**Mr N M Joshi** I am doing something.

**Mr President** I have allowed the Honourable Member to go on, but he must remember that the issue before the House is a very narrow one. Perhaps the Honourable Member was not in the House when I explained that Honourable Members should confine themselves to the one issue namely, the suspension of the cotton excise duty for this year and not go into other matters.

**Mr N M Joshi** Sir, I do not propose to go into other matters very long, but I may just mention some causes which have produced the present situation.

**Mr President** The Honourable Member should discuss reasons for or against the question that is before the House

**Mr N M Joshi** That is what I am doing, Sir I am trying to meet some of the arguments placed before the House by some of my friends

**Mr President** If the Honourable Member continues to argue in that strain, I shall have to stop him from continuing

**Mr N M Joshi** I am not doing that, Sir Now the present situation is due to the incompetence of the Bombay millowners The very fact that they have now tried to meet the situation, difficult as it is, by reducing the wages of the workers in Bombay shows their incompetence

**Mr President** The Honourable Member must understand what the question before the House is The question is whether the cotton excise duty should be suspended for the year 1925 or not That is the sole question The question of the competence or incompetence of the millowners is not at all relevant

**Mr N M Joshi** I am just trying to meet some of the arguments given by my Honourable friend

**Mr President** If the Honourable Member thinks that other Members have introduced irrelevant matters in their speeches and therefore he is also entitled to do so by way of reply, he is very much mistaken I have made it clear more than once that I will not allow the discussion on this Resolution to drift into questions outside its scope

**Mr N M Joshi** I bow to your decision, Sir My attitude is this, that the suspension of the excise duty asked for will not be a cure for the present situation but a better cure for the present situation is an inquiry into the present situation itself I was driven to the argument that the millowners are incompetent and cannot manage their industries well, and the reason given by me was that they have tried to meet the situation by reducing wages, and on that point, Sir I will only read one small quotation—with your indulgence—and that will sum up my whole point The quotation is not from a labour man but from Mr Henry Ford, one of the largest industrialists in the world

“Cutting wages is the easiest and most slovenly way to handle a situation, not to speak of its being an inhuman way It is in fact throwing upon labour the incompetence of the managers of the business If we meet with a depression, that is a challenge to every manufacturer to put his brains into the business, to overcome by management what other people try to overcome by wage reduction To tamper with wages before all else is changed is to evade the real issue and if the real issue is tackled first, no reduction of wages may be necessary That has been my experience The immediate practical point is that in the process of adjustment someone will have to take the loss, and who can take the loss except those who have something which they can afford to lose? But the expression ‘take a loss’ is rather misleading Really no loss is taken at all It is only giving up of a certain part of the past profit in order to gain more in the future”

My point is this If the present situation is to be relieved, it cannot be relieved by removing the cotton excise duty Let the cotton excise duty be suspended I am in favour of it But let the millowners withdraw their notices about reduction of wages, because the notices show their incompetence according to Henry Ford And secondly I request Government to make an inquiry into the whole situation of this industry We all want this biggest industry of our country to be put upon a sound basis I want it to be placed upon a sound basis even in the narrower interest of the working classes of Bombay Sir, to-day

**Mr President** The Honourable Member has exceeded his time limit (Mr N M Joshi began to say something) Order, Order Your time is up

**The Honourable Sir Basil Blackett** (Finance Member) Sir, you have ruled—and quite naturally—that the discussion on this Resolution must be confined to the question of the suspension of the duty. I shall find it a little difficult fully to comply with your ruling, though I shall do my very best, because my whole case is that it is a distinction without a difference. Suspension of the excise duty now means nothing else than abolition of the excise duty as from now. There is no distinction possible between the two. The Honourable Mover of this Resolution did not make any very definite attempt to show that the two were distinct and he let it be seen clearly in parts of his arguments that he was only calling it suspension, because he was not allowed by you to call it abolition.

**Sir Purshotamdas Thakurdas** My Resolution calls it suspension only, Sir

**The Honourable Sir Basil Blackett** The Resolution calls it suspension in order to come within the rules of the House and I say that suspension and abolition are exactly the same things. It is pure waste of time to use the four extra letters 'susp'. The word should be "end". If you want to hang this thing up, it is kinder to it and to everyone to hang it up for good and all.

**Sir Purshotamdas Thakurdas** It is high time you did it.

**The Honourable Sir Basil Blackett** I am afraid I must ask the House to follow me in an argument to show that you cannot distinguish between abolition and suspension. The Resolution can have no

**Pandit Madar Mohan Malaviya** (Allahabad and Jhansi Divisions Non-Muhammadan Rural) May I ask the Honourable Member, Sir, to assume that the House accepts his view and tell us why it should not be done?

**The Honourable Sir Basil Blackett** I think I shall be out of order, Sir, if I argue why the duty should not be abolished as from now. Let us look at the position which must arise. Supposing the Government were to accept this Resolution as from now onwards for the rest of the financial year the duty would not be collected but it would be part of the hypothesis that the Government would have to begin to collect the duty again on the 1st of April 1926. First of all, perhaps not the most important objection, we would have a staff costing about Rs 70,000 to Rs 80,000 a year entirely unemployed. We might possibly find a little use for some of them in other directions, but broadly speaking we should have to pay the whole of that staff for doing nothing for six months, because *ex hypothesi* it has got to be employed again on the 1st of April.

Now, what about the financial position? I have not heard any figure mentioned so far, but my estimate of the loss in the current year of duty would be between Rs 80 and Rs 90 lakhs. We should lose that in the current year. So far as the yield of the duty in the current year is concerned that is the amount of loss, but that is not the end of it. I think it was Mr Dumasia who said that there were Rs 12 crores worth of stock at present unissued. Now, the duty is payable not at

the moment of production in Bombay, but at the moment of issue from the mill. The millowners would take very great care, being the wise men they are, even if Mr Joshi is right, as I believe he is right, in some of his criticisms, the millowners would take very great care that there were no stocks of any kind unissued on the 1st of April 1926. We should therefore lose the duty not merely on the production between now and the 1st of April 1926 but also on the whole of the amount now in stock. I estimate that the extra duty will at least be a further Rs. 50 lakhs. This would mean a loss of Rs. 50 lakhs in the Budget of next year. Now, look at the position of the mills. They are suffering, among other things, from overproduction. Their difficulty is to get rid of their stocks. Here you propose for six months to suspend the collection of duty. You give them a direct incentive to produce as much as possible in the next six months and close down on the 1st of April. Is that good for any industry? It is obviously most undesirable from the point of view of the industry itself and it will be a very unkind thing from the point of view of the industry to suspend this duty just for six months if you intend to impose it again on the 1st April.

I pass for a moment to the question of the cost on this year's Budget. Sir Purshotamdas said, or rather it was well said for him, that we could easily beg, borrow or steal from other quarters in order to find money with which to get rid of the excise duty.

**Sir Purshotamdas Thakurdas** Sir, I should like to be reminded as to who said it for me.

**The Honourable Sir Basil Blackett** Mr Dumasia said that. He put Sir Purshotamdas' more elegant language into something nearer the truth.

**Sir Purshotamdas Thakurdas** Is that the Finance Member's construction or did Mr Dumasia say he was speaking for me?

**The Honourable Sir Basil Blackett** If the Honourable Member had had the courtesy to be present and listen to and follow Mr Dumasia's speech, it would not have been necessary to ask this question. The proposal is that I should beg. I am not sure whether I have got to beg from Madras, I have got to borrow from capital large sums to spend on revenue and I have got to steal from the sinking fund. I have no doubt that I should be capable of doing it for the Honourable Member if he really employed me for that purpose, but he will have to wait until he gets his representative Government before he gets anybody to do that. I cannot find this money except out of the Budget of the year. I must assume that the Budget as it stands is the Budget for the year. We do not yet know how the year is going to turn out. It is true that so far we have had a fairly good monsoon and it we get some rain in the next fortnight in Northern India, it may be a very good monsoon. But as things stand, we really know no more than we knew at the moment when we introduced the Budget, except that we have not got a thoroughly bad monsoon. So far as I have been able to study the estimates from the results of the first four months I see no reason to modify in any large direction the estimate that was made at the time when the Budget was introduced. It is true that as the result of action taken by this House yesterday, there is a possibility of an addition of 17 lakhs to the apparent surplus. I should like to take this opportunity

of informing the House that, provided the Standing Orders can be amended we propose to introduce a supplementary estimate to set to charge that sum to capital. Mr Jamnadas Mehta will perhaps longer accuse me of not having a heart in view of this evident change of heart.

**Mr Jamnadas M Mehta** That is some consolation.

**The Honourable Sir Basil Blackett** Now, the position, the fact is that we see no reason to suppose on the figures before us that we should be safe in doing without this amount of revenue for the rest of the year. We should run a very serious risk of bringing to an end the period of budget surplus which began with 1923-24. I submit that in itself would be most undesirable. But, quite apart from that, we are trenching to the extent of something like 50 lakhs on next year's revenue even if we only suspend. And, in view of the facts that are put before the House, I think it is perfectly obvious that the acceptance of this motion to-day must necessarily mean the abolition of the duty as from now. So that we should be short next year not of 50 lakhs only but of 2 crores of what we are at present entitled to count as part of our revenue. I do not say either that I guarantee the House against the risk of the good fortune of having a surplus this year or that I guarantee the House against the risk of our having a surplus amounting to 2 crores next year. I should, however, like to draw the attention of the House and of the Bombay Members who have been pressing for suspension.

**Mr Jamnadas M Mehta** The whole House is pressing for this.

**The Honourable Sir Basil Blackett** That remains to be seen. I would draw the attention of the Bombay Members who have been pressing for the suspension of this duty that the question could not possibly have arisen at all if exchange had been at 1s 4d. If, as some of them say, exchange is to be at 1s 4d next year, we have to start the Budget with an apparent deficit of 3½ crores approximately, simply as a result of exchange being at 1s 4d. I do not know which they will prefer. It is quite obvious that this is not the moment at which we can consider the abolition of the duty unless we do so in entire disregard of the financial situation and of the financial possibilities. Whether we have a surplus or not next year, lies on the knees of the gods. If we have such a surplus the question will arise how it is to be used and my friend Dr Macpherson's problem has to be answered. Are we going to use it for the reduction of the cotton excise duty or for other purposes? Therefore, it is perfectly clear that the Honourable Member who moves this motion moves it in this form because he cannot move it, under the laws of the House, in any other form. But this motion means nothing else than the immediate abolition of the duty. Let me just put again the position of the owners. Supposing we were to agree to suspend this duty with a full understanding that it was expected to be reimposed on the 1st of April. They would say—I think quite rightly—when it came to March they would assist us a little bit in our difficulties. You have given us some temporary relief and now you propose to come back and hit us again. It will be the last straw if you reimpose the duty now. I put it to the House that neither the House nor the Government could conceive of however serious our financial situation might be short of a real calamity reimposing this duty next April if they suspend it now.

Now, if the Honourable Mover means anything by this motion that is really temporary, I suggest that what he is asking is that this House should give a subsidy to the cotton mill industry—that it should give a subsidy the amount of which would be approximately the amount that we might expect to collect from the cotton excise duty, say 130 or 140 lakhs. This is a proposal to give a subsidy of about 140 lakhs to the mill industry in view of its difficult situation. If the emergency is such as to require that that industry should receive a subsidy I submit that the only proper way to approach the question would be to ask the House to vote such a subsidy direct and not to get at it by these indirect means. Just look what this indirect means involves. It has already been pointed out that the mills in the Carnatic do not suffer at present from the excise duty. I notice that one mill there recently paid 10 per cent *interim* dividend. This suspension of the excise duty would go to assist that mill just as much as the mills in Bombay, where the situation is certainly very difficult. The mills in Cawnpore would equally receive the benefit of this subsidy if given in this roundabout form. They admittedly do not require it and they do not certainly require it even to the extent that the mills in Ahmedabad, where the situation is difficult, do feel some need for assistance. I say, therefore, that if we were going to deal with the situation in any way on the lines suggested by the Mover, it ought to be dealt with by means of a subsidy. I do not for a moment desire to suggest to the House that the situation is so grave as to require the very heroic measure of a subsidy.

I have seen comparisons made between the situation in India and the situation in respect to the coal industry in Great Britain. And it has been suggested that if Great Britain could afford to have a crisis grave enough for a subsidy why not India also? I do not think anybody would suggest that the situation here is at all comparable to the situation that arose in Great Britain when you had a grave emergency which threatened the whole of the fabric of the industrial life of Great Britain. Nor do I think anybody would suggest that special subsidy to an industry of that sort is a precedent which we should be in a hurry to follow. It was obviously a temporary and a dangerous expedient adopted in a grave emergency and our attitude towards it ought surely to be that we should thank God that Providence has put us in such a position that we do not require to follow that undesirable precedent.

Now, thus far I have dealt with the question of suspension and I have tried to prove that it is absolutely equivalent to abolition. The Government could not take a decision of this House to-day in favour of the Resolution as being other than an expression of the view of this House that the excise duty ought to be abolished forthwith without reference to financial considerations and without reference to any of the other claimants on any possible budget surplus and they would naturally be guided by the results of such a decision in any consideration that they might give to the position that will arise next March when the Budget is under consideration. I hope I have convinced the House that suspension and abolition are identical. I will try, Sir, to keep within your ruling by continuing my argument in a slightly cryptic form. The effect of this Resolution would be that we give up the duty irrespective of our budget position. I should like to quote the words of His Excellency the Viceroy which have already been mentioned by the Mover in regard to this proposal that in the middle of the financial year we should act as is suggested.

"I recognise the strength of your plea and my Government have again considered most carefully whether we could not meet you in this matter. It is with real regret that I have to inform you that we have come to the conclusion that we cannot grant the request. I hardly think indeed that you have realised what that request means. You ask us to take action now in the middle of the financial year before the year has fully declared itself and before the commitments and the prospects of the next year are fully known. You suggest that at a time of this uncertainty the Government should remit a source of revenue which brings us in 2 crores. It is only in the most exceptional circumstance, exceptional to a degree which it is difficult to envisage, that a Government would be justified in adopting such a course. The time for taking stock of prospects is the time of the preparation of the Budget. Then and then only can a proper estimate be made of future prospects of revenue and charges. This decision indicates no lack of sympathy with the industry, no want of will to help it in its difficulty and no lack of desire to see the removal of the excise duty."

But he continues, this is based obviously on financial considerations.

Now I would put it to the House that one of the great advantages that have accrued from the Reforms of 1921 has been the fact that very much greater attention has been paid to the figures of the annual Budget. It has become, what it was not always before, a recognised objection to a proposal that it was brought up in the middle of the year and was not brought up at the proper moment in connection with the Budget. The Public Accounts Committee and the Standing Finance Committee have been setting their faces against any proposals, unless they are absolutely unavoidable, made in the course of the year, and the importance of sticking strictly to the financial programme has been impressed upon everyone. I had occasion just the other day to tell my Honourable friend, Pandit Madan Mohan Malaviya, that the middle of the year was not a moment at which I could reasonably take up the question of an increased grant to the Benares Hindu University, and that the matter must be taken up at the next Budget. I had to say much the same to Sir Hari Singh Gour with regard to the Delhi University and to Dr Ziauddin with regard to the Aligarh University. The right time to come before this House and before Government for this sort of thing is the time of the Budget, and I may add that it is a doctrine that is absolutely essential to the proper working of the Finance Department. Otherwise the position of the Finance Department would quickly become intolerable. I would refer, for example, to the Army Budget. What would be our position if it were not strictly recognised that new proposals must come up in connection with a new Budget?

The speech which has been quoted from more than once of His Excellency the Viceroy, in regard to this question, really covers the whole of the ground. He repeated in very solemn terms the pledge that has very frequently been made with reference to the cotton excise duty. He stated that the Government of India had every intention of getting rid of this duty as soon as financial considerations permitted. He did not even stop to justify the tax against some of the accusations that were made against it. Sir Purshotamdas Thakurdas has made one or two of such accusations again to-day, and also Mr Dumasia. Sir Purshotamdas Thakurdas said that the tax originally represented only  $3\frac{1}{2}$  per cent, but had now become  $8\frac{1}{2}$  of the cost of production. He does not, I think, suggest, that the tax has increased beyond  $3\frac{1}{2}$  per cent of the cost of production including raw material. It started by being  $3\frac{1}{2}$  per cent, and it is still  $3\frac{1}{2}$  per cent of the cost including raw material. In so far



as there is protection in the case of the cotton duties exactly the same applies to the 11 per cent import duty. The protection that the cotton mill industry gets in this country is  $7\frac{1}{2}$  per cent, and I have never heard them say that that protection has been doubled because prices have doubled. That is what his argument amounted to. Sir Purshotamdas Thakurdas also had something to say about the buying power of the people being reduced. I would ask him, if the buying power of the people has been so enormously reduced, how is it then that they imported 90 crores worth of precious metals in the last year? The obvious reason why they did it was because Sir Purshotamdas Thakurdas's piecegoods were too expensive and cotton was too high. It does not for a moment show that the buying power was less, but it shows that the people were unwilling to buy cotton goods in such quantities as they might otherwise have done, owing to the high price of cotton. Attacks have also been made on the cotton excise duty as being a capital levy. It is what it calls itself an excise duty. It was originally a countervailing duty. It is now an excise duty which does not in any way act as a countervailing duty as compared with the 11 per cent duty on imports. It is said that it has no precedents. I would remind the House that only in this very year in the British Budget there has been introduced an excise duty on artificial silk which is exactly comparable to this excise duty, with this exception that that is a countervailing duty and this is not.

I do not want to defend the cotton excise duty from attacks which are justified against it, but I do feel that it is necessary to say something in reply to the accusations that are frequently made against it of being an unheard of abominable tax. It is a tax which I think everyone in this House desires to see disappear at the very earliest possible moment, because it has a very bad history. I yield to none in the desire to see it go at the earliest possible moment, but it must I think go with reference to our financial position. It cannot go simply because there is temporary difficulty in the cotton mill industry.

It is not suggested that the suspension or abolition of the cotton excise duty would be anything more than a temporary and very slight palliative for the difficulties in which the cotton industry finds itself in Bombay and Ahmedabad. It would not in any way get to the root of those difficulties. That was admitted quite freely by speakers in this House arguing in favour of the disappearance of this tax six months ago. It is quite obvious that the difficulties are very much bigger and more serious and that they cannot be even touched simply by a reduction of the excise duty.

As regards the question of examination into the industry, I may remind Mr Joshi that the millowners were asked when they visited His Excellency the Viceroy to express their views on the subject of an immediate inquiry by the Tariff Board into the extent to which the industry requires protection, and that is really the question that does very much want looking into. The question is to what extent does the industry require protection. Is it protected sufficiently or too much or too little at the present time? Does it require special protection against competition from special quarters?

**Mr Chaman Lal** May I ask the Honourable Member whether he is prepared to announce an inquiry of that kind now?

**The Honourable Sir Basil Blackett** I am not in a position to make any announcement on the subject, but it must be remembered that the millowners were asked whether they would like such an inquiry on the 24th August. No reply has been received.

I am not quite sure why a reply has not been received, but it does seem to the Government that that would be the proper way to advance towards a solution of the difficulties for which this motion offers a quite unacceptable palliative, which would obviously not put the industry in a position to stand a reimposition of the duty six months hence if it cannot stand it to-day.

**Mr Chaman Lal** I do not wish to interrupt the Honourable Member again, but is he aware that we, in the interests of the workers, want an inquiry? Numbers have gone on strike already.

**The Honourable Sir Basil Blackett** It would in no way assist the distribution by way of subsidy (which this suspension would really involve) at all evenly among those who have to be helped. Obviously this is not a solution of the difficulty, obviously this is not the way to reach our immediate object, to try and arrive at a solution, by the indirect method of suspension, which really means abolition. I submit that the House would be making a considerable mistake if it votes for this Resolution in the existing circumstances. It is not in possession of the facts, it is not in possession of the financial facts either of this year or next year on which it could come to a conclusion whether or not action such as is proposed in the Resolution is justified. It is not now considering the annual finances of the year and is not able to take into consideration the extent to which any surplus, if we are so lucky as to have a surplus, should be used in this direction or in some other direction. I would suggest to the House that the proper time for this discussion will be in connection with next year's Budget. We can then take all the facts of the case into consideration, and if the millowners have by then agreed to this inquiry, possibly the situation in regard to the cotton mill industry may be better known to the House. Let me in conclusion read the words that were used by His Excellency the Viceroy in answering the deputation. His last words were these:

"The whole question is as to the time when the Government of India will be able to redeem the pledge. I refuse even to discuss the question of the excise duty which has been raised by Mr Wadia, because I regard it as a matter outside Lancashire, outside every consideration except the financial consideration of India."

And I should like to repeat what I said in this House six months ago, that the Secretary of State's attitude in regard to this matter is not in question. If the Government of India were of opinion that the time had come for abolition of the duty, there would be no question of any kind of intervention from London.

"The pledge was made,"—continued His Excellency—"we are bound by the pledge, we stand by the pledge, we are most anxious to carry it out, and for myself,"—said His Excellency,—"I would be very glad if it came in my time, as the Finance Member said 'within his time,' when it could be taken off. But it cannot be taken off at this moment, but only when financial considerations permit, and of course those are the considerations that we have to consider."

I ask the House not to be led away by any other considerations in this matter than the consideration as to whether the moment has come at which we can completely get rid of this tax. If they vote for the suspension, the Government can only take it as a vote for immediate

abolition, and naturally their decision on the facts, whatever they may be next March, will be guided by any vote of that sort. But I submit the House would be very much wiser, all things considered, if they were to adjourn this debate and take the whole question up again in March.

*Several Honourable Members* I move that the question may now be put

**Mr. Kasturbhai Lalbhai** (Ahmedabad Millowners' Association : Indian Commerce) Sir, I find myself in rather a difficult position in speaking on a subject with which I am intimately connected because it has been discussed so threadbare that I can say hardly anything about it which this House does not know. Again, the Resolution being in the hands of such an able and prominent business man as Sir Purshotamdas Thakurdas, it needs very little from me to commend it to the House. Sir, Honourable Members are well aware that this is the fourth time this subject has come up for discussion in one form or another. It has been before the public for the last two years and over. As far as the general public and the elected representatives of the people are concerned, they have demanded in unmistakable terms the abolition of this obnoxious duty. The Government and their highly placed officials have not lacked in lip sympathy, but the time is passed when lip sympathy and pious hopes can alleviate the situation. This is the third successive year of depression in the textile trade, the like of which has been rarely experienced. Assisted by the reserves laid down in good years, the industry has withstood the losses of the past three years, but unfortunately it is not in a position to-day to draw on its past reserves any longer, and unless something is done now and immediately, it will receive a set back from which it may not be easy to recover.

Sir, it is becoming more and more difficult to take the Government Members at their word. I am sorry to make this charge against the officials, but their consistent conduct leaves no choice to me but to level this charge and prove it. The Honourable the Commerce Member gave an assurance that he would examine the case of hosiery with regard to the cotton excise duties, and at that time he reserved his judgment on this issue. After allowing him one full year, I put the question whether he had arrived at any conclusions and the simple answer came forward "No." Another instance, Sir. It has been proved to the satisfaction of the Honourable the Commerce Member that, under the present system of tariff valuations almost all the Ahmedabad mills are made to pay  $4\frac{1}{4}$  to  $4\frac{1}{2}$  per cent. of cotton excise duties. Last year I saw the Secretary, Commerce Department, and got a definite assurance from him that this would be set right at an early date. One full year has passed since then and nothing has been done in the matter. Sir, as will be seen from the duly certified accounts, the losses of the Bombay mills alone for the past three years amount to more than Rs. 6 crores. The stocks of piecegoods have gone up tremendously and after waiting for a year and over for Government assistance, Bombay millowners have been obliged to cut the wages of their workmen by about  $11\frac{1}{2}$  per cent., for which measure a good deal of criticism has been levelled against the. I crave the indulgence of the House to be permitted to explain the reasons which drove the millowners to adopt this course.

**Mr. N. M. Joshi** In other words incompetence

**Mr Kasturbhai Lalbhai** The losses of the mills were rising and there was an urgent necessity to minimise them. Short time working would have meant a higher cut in wages and raising the cost of production.

**Mr. Chaman Lall** Cut out your commissions.

**Mr Kasturbhai Lalbhai** I will deal with that in a minute. The competition from Japan has been assuming serious proportions and it was essential to reduce the price of piecegoods to the lowest level possible. Imports of Japanese yarn and piecegoods during the last three months, April to June, have been almost twice as large as the imports for the same period during the previous two years. Prices of Indian piecegoods had to be reduced by 25 to 30 per cent during the last six months. This is borne out by the Government altering their tariff valuations accordingly, but there has been no similar reduction in the price of ready cotton or in the cost of manufacture. Sir, it has been said that we should have explored other avenues of economies instead of a cut in our workmen's wages. We should have reduced the salaries of the supervising staff and agents' commissions. Now may I inform the Honourable Members that the wages of the supervising staff do not amount to more than 6 or 7 per cent of the total wage bill? Again, while the wages of workmen have been increased by 80 to 90 per cent over the pre-war standard, the increase obtained by the supervising staff has not been more than 20 per cent.

5 P.M.

**Mr Chaman Lall** What is the total amount of the commission?

**Mr Kasturbhai Lalbhai** I am coming to that. Just wait for a minute. I may also be permitted to explain why it has not been possible to make reductions in other directions. In finding out the cost of cloth produced in our mills, we have got to take the following items into consideration—cost of cotton, mill stores, coal, interest, insurance, commission to selling agent, commission to managing agent, cotton excise duties and depreciation.

Now, Sir, we try and obtain the cotton at the best price prevailing, the commission allowed to purchasing agents being not more than  $\frac{3}{4}$  per cent or 1 per cent. Unfortunately, we have to purchase our mill stores from abroad at the ruling market price. I pleaded in vain during the last Delhi Session for a reduction in freight on coal. In interest and insurance we cannot conceive of any economy. It will, therefore, be clear that the price of cotton, the cost of stores and the interest and insurance charges are factors beyond the control of the mill management. The only two items in which the management can effect economy are the commission of agents and the wages of labour. So far as the agents' commission is concerned, during the year 1924, out of 55 mills whose statements were available, ten mill agents did not charge a single pie for their remuneration,

**Mr Chaman Lall** What about the others?

**Mr Kasturbhai Lalbhai** while 13 relinquished the major portion of their commission.

**Mr Chaman Lall** What about the others?

**Mr Kasturbhai Lalbhai** I have received statements only for 55 mills, and I am dealing with them.

**Mr. Devaki Prasad Sinha** The rest?

**Mr Kasturbhai Lalbhai** And still we are told, Sir, by the Honourable the Finance Member that the fault lies with the management and not with his managing the exchange

It is a patent fact, Sir, that Indian industries have suffered more by the adverse exchange than anything else. But for it I doubt very much whether Japan would have succeeded in getting a hold over the Indian market as she has done. To-day, Sir, Indian industries are suffering hardships more because of the exchange policy of the Government of India than any other factor.

So, we have been accused that our management has not been efficient. In spite of the excise, in spite of heavy import duties on stores and high freights on coal and other disabilities, India has successfully established this great national industry. Here I have got the testimony of another authority, Mr Clare Lees, Chairman of the Manchester Chamber of Commerce, who, after seeing some of our cotton mills in Bombay, observed that they are the best equipped mills he has ever seen and the Commerce Member is aware of this.

We have been also accused of having our mills over-capitalised. How baseless this accusation is will be found by anyone who cares to examine the balance sheets of some of them. Sir, when during the post-war boom 80 per cent of the cotton spinning and weaving mills in England were recapitalised at three or four times the original value, I am glad to say that not more than 2 per cent of our Indian mills were recapitalised.

We have been further accused of shirking an inquiry by the Tariff Board. Sir, it is entirely wrong. We had an inquiry by the Indian Fiscal Commission which unreservedly condemned the cotton excise duties and asked Government to clean the slate. I ask, have they done this? If not, what is the meaning in multiplying inquiries unless these are meant to defer action and cloud the issue? If Government really mean business, let them take off these repeatedly condemned duties and then if protection is asked for by the trade, there will be time for an inquiry.

**Mr N M Joshi** Where is the harm in an inquiry?

**Mr Kasturbhai Lalbhai** Sir, much has been made of the phrase that the sympathetic and farsighted Viceroy, Lord Hardinge, used in 1916, namely, that "the cotton excise duties will be abolished as soon as the financial considerations permit." It is forgotten that he used this term during the stress of war and when there were innumerable calls on the finances of India. That term has been turned, twisted and paraphrased by the present authorities to suit their purpose. When recently the deputation of the Bombay and Ahmedabad millowners waited on His Excellency the Viceroy, he said that in the middle of the budget year the Government of India cannot come to our assistance. May I know, Sir, whether the same consideration weighed with the Government of India when they carried out the Lec loot, when they called an emergency meeting of the Legislature to give the steel industry protection, when they gave away £100,000,000 as contribution from India? Sir, only recently, the British Government, in the middle of the budget year, did not hesitate to pay a subsidy of £10 millions to save the collieries and coal miners. In short, where there is a will there is a way.

Sir, I have been told that the Government have not been convinced of the exigencies of the situation. In reply I shall borrow the phrase of the

leader of my party "that if the Government Members have no eyes to see, no ears to hear, no brains to realise the situation, how am I going to convince them?" Sir, I support the motion of my Honourable friend Sri Purshotamdas Thakurdas

Sir Darcy Lindsay (Bengal European) Sir, in spite of the red hearing which my Honourable friend the Finance Member has drawn across the track of this Resolution, I propose to support it, and I hope some of my colleagues at least will join me. We consider it very necessary that the Government should be asked to extend a helping hand to this great national industry. The Finance Member tells the House that the remission of the duty now means its abolition in the next Budget. I am sure we hope it may be so. But if money is really not then available, I question whether the mill agents will feel as aggrieved as the Honourable Member seems to think. Why does he not put the position to them? Are they willing and anxious to receive this remission now for the rest of the financial year on condition that if funds are not available, there can be no abolition next year? I think that their answer would be a unanimous yes. When I was in Bombay a few weeks ago, I spent three days there and the present critical position of the industry, due largely to competition from abroad and the accumulation of stocks, was brought home very forcibly to me. We must unite, Sir, in giving such assistance as lies in our power to remedy what has become a dangerous situation. I do not think, Sir, it is denied by any one that the situation is now most dangerous. I do not propose to go over the old grounds as to the merits or the demerits of the excise duty. It is now admitted on all hands that the tax is a bad one and must go as soon as money is available. I am told that the immediate effect of a remission of this duty would be a reduction of  $\frac{3}{4}$  anna in the price of cloth, and the hope is that this will materially help sales and reduce stocks to normal conditions. My Honourable friend Mr Joshi informed the House that the excise duty is entirely responsible for the present position in which the industry is placed. But that is not by any means so. It is due to many other causes. It is not contended that this remission will entirely solve the situation. It must be left to the Tariff Board or the Tariff Inquiry Committee to look further into the question, but in the meantime the remission will give some measure of relief and help to remove the heavy clouds of despair that are now hanging over the industry. It was only yesterday that my Honourable friend Sir Charles Innes in his eloquent pleading for further protection for the steel industry told the House that Government decided to adopt a bold and generous measure and as a result stocks which a year ago were overhanging the position had been reduced to normal and the steel industry extricated from the serious

us come closer home Did we not only yesterday give Rs 18½ lakhs to the steel industry in the middle of the financial year, and where is the difference ? Surely what is sauce for the goose, is sauce for the gander

**The Honourable Sir Basil Blackett :** That is provided for from the original budget surplus of Rs 24 lakhs

**Sir Darcy Lindsay** Reference has also been made to the Rs `50 lakhs which we voted yesterday for expenditure on opium Now, Sir, was there any real necessity to take this money out of revenue if the money was required and desperately required for other purposes ? I contend, Sir, that that money for the purchase of opium should be in suspense account and not charged to revenue Then the Honourable the Finance Member has himself referred to the Rs 17 lakhs that was saved yesterday from revenue and is now going to be put to capital account All this, Sir, goes to show that money can be found when wanted We know, Sir, that there must be some surplus this year over the amount that the Honourable the Finance Member budgeted for owing to the rise in exchange alone He budgeted at 1s 6d and exchange since then and at the present time is considerably higher Then we have the duty on steel I believe there is an amount over and above what may be given as bounty to the steel industry Then we passed a Bill only a few days ago to collect higher duty on paper I take it that the Finance Department will receive extra money from that duty I do not suggest that the Honourable the Finance Member can produce rupees from the air like the conjuror whom I noticed he was watching with some interest at a recent garden party But if he will only admit that under very special circumstances relief may be given in the middle of a financial year, I believe he can find the money What he is asked to do is to give up a possible collection of Rs 80 or 90 lakhs The Honourable Member went further than that and said it was really Rs 130 lakhs owing to accumulation of stocks Is he not an optimist in thinking that such an amount can be collected if he does not remove this excise duty ? The great trouble in the industry is that the mills cannot sell the goods owing to the high prices So, I very much question whether the sum of Rs 130 lakhs he anticipates will ever reach him It has often been said, Sir, in this House that the Resolution that are passed are not acted upon I hope Government will rise to the occasion and see that so far as this particular Resolution is concerned the recommendation will be given effect to at the earliest possible moment. With these words I support the Resolution

*Several Honourable Members* I move that the question be now put

**The Honourable Sir Charles Innes** (Commerce Member) I had not intended to intervene in this debate at all Indeed, I had hoped that it would not be necessary for me to do so, but the speech of my Honourable friend Sir Darcy Lindsay has compelled me to make a few remarks

In the first place he drew an analogy between the suspension proposed by my Honourable friend Sir Purshotamdas of the cotton excise duty and "the bold and generous stroke" which this House took last January in giving a bounty of Rs 50 lakhs to the steel industry Sir, I may point out to the Honourable Member that there is all the difference in the world between giving a grant of Rs 50 lakhs to a single firm and giving a suspension of taxation amounting in all I understand to

Rs 100 lakhs—my Honourable friend on my right will correct me if I am wrong—to an industry which comprises well over 100 to 150 mills. The Honourable Member seems to think that this suspension will make all the difference to the cotton mill industry. I make bold to say that that statement is not correct. I doubt very much whether a suspension of this cotton excise for the rest of the year would even touch the fringe of the problem which now lies before the cotton mill industry. What really surprised me most in my Honourable friend's speech was its extreme ingenuousness. I do not for a moment suggest that my Honourable friend Sir Purshotamdas is in any way tricking the House. Sir Purshotamdas was compelled to put his Resolution before the House in this form because, as my Honourable friend Sir Basil Blackett has pointed out, he could not have proposed the total abolition of the cotton excise without coming within the mischief of the Standing Orders. He would not have been allowed, as you, Sir, have pointed out, to move a Resolution suggesting the abolition of the cotton excise. But I am perfectly sure that Sir Purshotamdas knows, just as we all must know, that if we suspend this tax now it is not practical politics to put it on again in March next. Are we going to disband the staff we have got now and collect it again in April? And having once taken off a tax with the history of this tax, does any one suggest that the Government could put it on again in March? Every body must realise—Sir Basil Blackett has said this once and I say it again—every body must realise that, if the House passes this Resolution in the form suggested by my Honourable friend Sir Purshotamdas, Government will have no option but to take that as a decision of the House that the cotton excise should be abolished. Our sole point is that before the House comes to this decision they ought to have the issue properly before them and they should not be led away into giving a premature decision in favour of the abolition of the cotton excise.

Now, Sir, before I sit down I should like just to refer very briefly to one or two remarks made by my friend Mr Kasturbhai Lalbhai. He accused me of not having carried out my promises in regard to hosiery and in regard to altering the system of tariff valuation. Both these questions are being considered. I may tell the Honourable Member quite frankly that since the cotton excise is under sentence of death, I see no reason why we should alter the system of valuation which has been in force for many years and I see no reason why I should bring an amendment of the Cotton Duties Act before this House when we propose to abolish that Act as soon as financial considerations permit. Let me also refer to this question of the inquiry of the Tariff Board. Every body will admit as I have just said that the taking away of the cotton excise duty does not touch the fringe of the problem for the millowners. They admit that themselves and we all know it, and that was the reason why His Excellency the Viceroy, when the deputation came up before him, asked the millowners whether they would like to have an inquiry by the Tariff Board into the conditions of their industry, in order to decide whether or not protection was required. Now, I must confess that I cannot understand the attitude taken up by the millowners in this matter. They always refer us to the Fiscal Commission and they always say, "we will not have that inquiry until you take off the cotton excise duty." Well Sir, if we remitted that question to



the Tariff Board for inquiry, it will be no part of the Tariff Board's duty to decide or to advise us whether or not the cotton excise duty should be taken off. That is a decided question. It would not be reopened in any way at all. I cannot help wondering why the mill-owners always refuse that inquiry. We cannot remit the matter to the Tariff Board for inquiry unless the millowners apply. That is the position we take.

**Mr Kasturbhai Lalbhai.** We have no confidence in the *bona fides* of the Government Members.

**The Honourable Sir Charles Innes.** If that is the reply that they give me, the reply that I feel inclined to give my Honourable friend Mr Kasturbhai Lalbhai is that the reason why the millowners so dislike the idea of an inquiry into the conditions of their industry may be thought to be that they are not altogether satisfied that the result of that inquiry would be entirely creditable to that industry.

*Several Honourable Members.* I move that the question be now put.

**Mr President.** The question is that the question be now put.

The motion was adopted.

**Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber, Indian Commerce). Sir, I do not propose to detain the House at any great length but I feel I must reply to one or two points raised by the Honourable the Finance Member. He, Sir, was quite up to his usual form in meeting a Resolution especially where according to me at any rate he has to oppose a strong case, and he has a poor defence himself. My Honourable friend said in the beginning, "I have had to refuse grants to the Hindu University, the Muslim University and the Delhi University, on behalf of which requests were put forth by Pandit Madan Mohan Malaviya and Sir Hari Singh Gour, and how can I in the middle of the year attend to the textile industry?" Where is the comparison, Sir, between the paltry lakh or two required for these universities (*An Honourable Member* - "Paltry?") Paltry by all means as compared with the stake here. The stake here is of an industry built up by Indians for the best benefits of India. You talk of one lakh, half a lakh or two lakhs being refused to the Hindu or the Muslim University. I am sure that the Hindus and the Muhammadans in this House will realise that that was irrelevant to the question before us.

Then the next thing he said was "we have to refuse fresh grants to the Army Department in the middle of a year." I am sure that my Honourable friend successfully refuses grants in the middle of a year to the Army Department in peace times. But in war times my Honourable friend will himself admit that grants may be voted above his head even, if he is not at headquarters. I submit, Sir, that the Indian textile industry at this juncture should be considered as important and as urgently in need of immediate assistance as the case of requirements of the country in war time. During peace time the country flourishes, and the treasury flourishes with the successful carrying on of industries. Therefore in the present case, Sir, I claim that the Finance Member should give the same treatment that he gives during war time to demands from the Army Department.

He next asked me, Sir, some questions regarding the exchange policy which I do not want to discuss. But he asked me a very pointed question.

to which I feel I must give him a reply I did not give him my own opinion because I decided not to give my own opinions ever since I accepted the membership of the Royal Commission but I gave him the opinion of an English banker whose opinion is entitled to some consideration at least at the Finance Member's hands If the Honourable Finance Member wants to interrupt me I shall give way to him, though he did not give way to me

**The Honourable Sir Basil Blackett** . I was careful to say not a word about Sir Purshotamdas Thakurdas when I was talking of exchange

**Sir Purshotamdas Thakurdas** I referred to the fact that the buying power of Indian agriculturists and the masses had gone down and he asked me to explain how it was that India had imported 90 crores worth of gold May I, Sir, refer him to himself and the policy that he has been adopting, of artificially cheapening gold in India and of making gold available to the masses at Rs 21-6-0, a price at which as any person in the Finance Department knows the masses of India rush in for gold What is the good of asking me ? Let him ask himself and let him tell us what explanation he has got to give for having thus diverted the resources of India It will be for him some day in the future to reply why he chose to adopt that policy for India lately But, Sir, his reply was that the cultivator does not buy Indian piecegoods because the millowners sell the piecegoods dearly His Excellency the Viceroy has said Indian cloth cannot be sold cheaper because the price of cotton has been high Does the Honourable the Finance Member deny that, and if the price of cotton has been high, what does he mean to convey by his reference to dear Indian mill made cloth ? Does he indicate that the Indian millowner here has funds which are inexhaustible and upon which he can draw in order that his mills may keep on working and losing money ? Sir, I claim that at this juncture, it is the duty of the Government of India and of the Finance Member of the Government of India, if he really wishes to serve the best interests of the country, to say " All right, even though it is an extraordinary thing to do, we will at least suspend this duty and will enable you to move on your piecegoods at a reduction of  $\frac{3}{4}$  anna per pound " Sir, the Commerce Member said that this is not adequate It may be, but the very fact that he confessed that this relief of  $\frac{3}{4}$  anna per pound is not adequate makes it incumbent upon him and upon His Excellency the Viceroy and upon the whole Executive Council of the Government of India to say, " Let us at least do this and tell the people concerned, the millowners, to help themselves and look after themselves " Instead of that, Sir, the Finance Member gets up and pleads before the House, " I warn you, if you do this, the country will be incurring a great risk " That, Sir, should not be the outlook of a responsible person in the position of the Finance Member of a continent like India Let him have a broader outlook, I say I want him to take his courage in both hands I told him that he has hidden away crores and crores within the last few years (Laughter) You set aside, as I pointed out, 11 crores under the sinking fund and 11 crores under railways You never disputed that point

(The Honourable Sir Basil Blackett rose )

You will have your right of reply I say, Sir, that if at this juncture the Government of India still hesitate to rise to the occasion and to suspend

this duty for the six months my Resolution asks for, all that we would conclude is that we are not likely to get much from them, at any time.

One point more, Sir, as far as certain remarks of Sir Basil Blackett are concerned. A reference has been made to the suggested inquiry by the Tariff Board. I fully agree, Sir, that if and when the millowners want protection at the expense of the tax-payer, they must go to the Tariff Board. But why should our Government friends be more anxious that the millowners should go to the Tariff Board than the millowners themselves?

, The Honourable Sir Charles Innes. You asked for protection against Japan.

Sir Purshotamdas Thakurdas. That does not refer to my Resolution. My Resolution is regarding the suspension of the cotton excise duty, which you yourself admit has been bad, obnoxious, etc., etc. Why bring up the question of inquiry to-day?

The Commerce Member, Sir, or the Finance Member or His Excellency the Viceroy himself said, 'Why not go to the Tariff Board', and it was said that the millowners had not replied to it. I am not in the confidence of the millowners, I am not a member of the Millowners Association, and therefore I cannot say if the millowners hesitate to go to the Tariff Board.

Sir, a vague suspicion lurks that the Government of India may be watching for some method or other of forcing upon India Imperial Preference—which, Sir, India cannot conceive of as long as Indians are treated as they are in the Colonies. (Hear, hear.) A further apprehension is that if India does not adopt Imperial Preference, she should, by some method or other, be forced to give preference to the United Kingdom—another problem on which some Indians have strong views. The suspicion is that by compelling millowners to go to the Tariff Board, the Government of India have some such thing as this in contemplation. I do not know how much truth there is in this. I am not able to say if the millowners themselves hold these views or not. But why be more friendly to the millowners than the millowners are to themselves? They claim, Sir, that the abolition of the excise duties is their birthright. You set aside 21 crores on one side, we say we are entitled to this sum. It is no use appealing to Madras and to the Punjab and other provinces and saying, "Look here, your provincial contributions are in danger." I say, Sir, and I say this with all deference to my reverend friend, Dr Macphail, that that question does not arise. Madras has had her reduction of contribution for this current year. My Resolution only asks for suspension for the balance of the current year. Next year I hope that this Assembly will assert itself and will extract the excise duty out of the Treasury Benches in spite of the strongest opposition that they may put up. I do not think that I have anything more to say. Sir, I wish only to refer to the remarks of my Honourable friend Mr Joshi. I deplore those remarks, and I hope that he himself will regret that he made some of those remarks.

Mr N. M. Joshi. Which remarks?

Sir Purshotamdas Thakurdas. I do not wish to enlarge upon that further. My aim to-day is to put before the House and to put before my

Honourable friends opposite the very grave situation in the textile industry in Bombay and in Ahmedabad, which threatens to travel further upcountry also

We were told by Sir Basil Blackett that instead of asking for suspension, I should have asked for a subsidy. How does the question of asking for a subsidy arise? I ask for no favour, I ask for what is the birthright of India and Indians as far as the removal of the cotton excise duty is concerned. There is no question of labour and capital here. There is no question of asking for a subsidy. The Government of India, constituted as they are at present, will take many many years before they learn or are able to give a subsidy to the textile industry. There is great competition already to-day, and the eyes of Lancashire are already turned to India. Can we expect a favour from Government in the present situation? We insist upon only what is overdue to us and what is our birthright. I do not think that any Member on the Government Benches is entitled either to raise the question of provincial doles or to raise the question of the Hindu or Muhamadan University in this connection. I wish that the Finance Member had thought it very undesirable to mention that part of it. I stand, Sir, in the name of the Bombay Presidency and in the name of the Indian textile industry to claim from the Government of India what is their birthright. Thirty thousand people are out of employment. Are they going to wait until it goes up to one lakh?

Mr Chaman Lall. What have the Government done for them?

Sir Purshotamdas Thakurdas. What is the good of saying that you have no money?

Finally, I wish very much to express my appreciation of what Sir Darcy Lindsay said on behalf of his European colleagues. (Applause.) At least I have this satisfaction to-day that whatever the Honourable Members on the Government Benches may say, European and Indian commerce are unanimous to-day in running down the policy of the Government of India as far as this obnoxious duty is concerned. I should like to express my grateful thanks to my Honourable friends representing European commerce and interests, and I fervently hope that we will oftener be able to look at many questions from that common standpoint, the best interests of the land we live in and love. I beg to move my Resolution, Sir, and recommend it, with conviction, for the acceptance of the House.

The Honourable Sir Basil Blackett (Finance Member). Sir, Sir Purshotamdas asks us to have "a little outlook"! I suggest that is sometimes what the commercial community has when it is trying to get something out of the tax-payer into its pockets,—"a little outlook". The Honourable Member has made a somewhat violent speech. However, after the sample we had yesterday of the extraordinary manner in which he gave thanks for the Government's offer of a subsidy of 60 lakhs for steel, I could hardly have expected anything different to-day. He really has left me nothing to answer, because he has said nothing. (An Honourable Member. "Then why speak?") I am speaking only because there are some Honourable Members who are incapable of listening to arguments unless repeated.

Mr M. A. Jinnah. We believe you have nothing to say.

**The Honourable Sir Basil Blackett.** There is one point. The Honourable Member inquired why the Government spoke about a Tariff Board inquiry in regard to the mill industry. One of the main reasons, Sir, was that the Millowners' Association—for whom Sir Purshotamdas Thakurdas says he does not speak—asked the Government for the imposition of a higher import duty on yarn and cloth below 30 counts on the ground of protection. That was the main reason which brought the question up. The other reason of course was—Sir Purshotamdas Thakurdas asked why it was that the millowners did not desire an inquiry, the answer to that has already been well given by my Honourable friend the Commerce Member, namely,

**Sir Purshotamdas Thakurdas** I gave it also

— **The Honourable Sir Basil Blackett** that they did not think that their case is one which will bear much investigation. I have really nothing more to add to what I have already said. It is perfectly ridiculous for any Honourable Member to pretend that there was any difference between suspension and abolition.

**Mr R. K. Shanmukham Chetty** Why then did not His Excellency the Viceroy refer to that?

**The Honourable Sir Basil Blackett** I cannot hear the Honourable Member.

**Mr R. K. Shanmukham Chetty** Why did not the Viceroy say that suspension leads automatically to remission?

**The Honourable Sir Basil Blackett** The millowners, for whom Sir Purshotamdas Thakurdas does not speak, were wiser. They did not ask His Excellency for suspension, they asked for abolition. They asked for what they meant—not what the Resolution to-day says that they mean. I will repeat once more, Sir, that this Resolution really requests the immediate abolition of the cotton excise duty. The Government of India are not prepared to consider the question of the abolition of the excise duty except in connection with next year's Budget. When the next year's Budget comes forward, the question will be very carefully and sympathetically considered, and the House will I think be making a mistake to-day if it passes the Resolution which the Government must take as a demand for abolition in all circumstances without reference to financial considerations, whether there is a surplus or not, as from the beginning of the next financial year.

**Mr President** The question is

“That the following Resolution be adopted

‘This Assembly recommends to the Governor General in Council to be pleased to forthwith suspend the collection of the cotton excise duty for the rest of the current year 1925-26, in view of the critical stage of the Indian textile industry as at present prevailing.’”

The motion was adopted by 57 votes against 32

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*Tuesday, 15th September 1925*

RESOLUTION *RE* BOUNTY ON STEEL

The Honourable Sir Charles Innes (Commerce Member) Sir, I beg to move

“ That this Assembly recommends to the Governor General in Council that a bounty should be paid on steel manufactured in India between the 1st of October 1925 and the 31st of March 1927, subject to the following conditions

- (1) The bounty should be paid only to firms or companies manufacturing, mainly from pig iron made in India from Indian ores, steel ingots suitable for rolling or forging into any of the kinds of steel articles specified in Part VII of Schedule II to the Indian Tariff Act, 1894
- (2) The bounty should be paid on steel ingots manufactured by such firms or companies, and the bounty should be paid at the rate of Rs 12 a ton on 70 per cent of the total weight of the ingots manufactured in each month.
- (3) The total amount of the bounty payable under this Resolution in the 6 months ending the 31st of March 1926 should be 18½ lakhs and in the year commencing the 1st of April 1926 and ending the 31st of March 1927 should not exceed 41½ lakhs, making a maximum total in all of 60 lakhs.”

Sir, this Second Assembly has grown up with the steel problem. It has been before us at almost every meeting and the ground is so familiar that I do not think that the House will expect me to travel over it again in any detail. I need only remind the House that in January last I made a proposal that bounties to the amount of 50 lakhs of rupees should be given to the steel industry, that is to the Tata Iron and Steel Company, in the year beginning on the 1st of October last and ending on the 30th of September next. And when I made that proposal to the House I promised that the whole question would be re-examined by the Tariff Board during the summer of this year and that it would be brought again under the review of this House in this session. In pursuance of that promise, the Tariff Board have made an examination of the question and the report or rather the reports of the Tariff Board have been circulated to Honourable Members. And it is also in pursuance of that promise that I am now placing the matter again before the House. I think I may assume that all Honourable Members have read those reports. I think I may assume that Honourable Members will accept the recommendation of the Tariff Board that special assistance is still required for the steel industry in India. I propose also to assume that Honourable Members will agree that that special assistance should take the form of bounties rather than an increase of duties, and finally, with due deference to my Honourable friend Mr Rama Aiyangar I propose to assume that the House will agree that these bounties should be guaranteed for the rest of the life of the Steel Protection Act, that is to say that the House will agree that we should have no further inquiries into this Act until the whole matter is revised with reference to the Delhi Session of 1927. I conceive that the main question that the House wants me to explain to-day is why the Government in making our proposal to the House have cut down the recommendation of the Tariff Board. The Tariff Board, as the House knows, recommend that in the remaining period of the life of the Steel Protection Act, bounties to the extent of 90 lakhs of rupees should be given to the steel industry. The Government are suggesting to the House that we should modify these proposals and cut down the bounty to 60 lakhs of rupees, and I think that my main task to-day is to explain to the House why the Government have

adopted this course I can quite understand that our proposals in this matter will cause some difficulty to Honourable Members. Honourable Members will say : You have in the Tariff Board your expert advisers. They have definitely come to a conclusion that you ought to give bounties to the steel industry of 90-lakhs of rupees and we want to know why you propose only to give them 60 lakhs of rupees. I must confess, Sir, that the recommendations of the Tariff Board in this matter came rather as a shock to the Government. I need hardly remind the House that when I addressed the House on this subject in January last, the position of the steel industry in India was, I might almost say, critical. At any rate, the steel industry at that time was in a very serious position, and the Government quite deliberately came to the conclusion that the right course for them to take was to adopt a bold and generous measure. I notice that the Tariff Board have in their report criticised the proposals I made to this House in January last as being rather too generous. Sir, I said quite openly in my speech to the House in January last that the Government knew that the proposals they were then making were more generous than the recommendations made by the Tariff Board. As I say, we were quite deliberate in the action we took, and I think I may claim that as a result of that action, we have succeeded in extricating the Tata Iron and Steel Company from what was a very serious position. Indeed, there is confirmation of that fact in the speech of the Chairman of the Board of Directors at the last annual meeting of the Company. Now, Sir, I am happy to say that the position of the steel industry is very much better. The Tariff Board themselves brings out these points quite clearly. In the first place, a great difficulty in January last was that there were heavy stocks of imported steel in the country. Those stocks were hanging like a thunder-cloud over the market. Now those stocks have been dissipated, and we have the definite statement of the Tariff Board that stocks of imported steel are now practically normal. Then again, Sir, we can claim that the prices of steel have been stabilised. It is true that they have been stabilised at a low level, but the essential point is that they have been stabilised, and the result of that stabilisation of prices is that, if the calculations we have made in the Commerce Department are correct, there has been a considerable increase in the consumption of steel in India, which is a very satisfactory feature. Then again, one of our great difficulties in January last was the enormous stocks of steel held by the Tata Iron and Steel Company. Those stocks, the Tariff Board report, are now down to normal, and the Company are having very much less difficulty than they had in selling their steel. Indeed, the Chairman of the Board of Directors in his speech at the last annual meeting definitely told us that the Company was booked well ahead with orders. There are no more of those forced sales at ruinous prices, which were such an embarrassment to the Tata Iron and Steel Company in the autumn of last year. I have quoted more than once from the speech of the Chairman at the annual meeting, but I will quote him again. He then said that "the position of the Company is steadily improving from day to day and from month to month." There is improvement in another direction also. There has been a stoppage of that enormous flood of imports of steel into India which was such a feature of the position in the autumn of last year. I think I may say that there are signs now that our policy of protecting the steel industry in India is becoming effective and the clearest testimony to that fact is the reduction of this flood of imports. I gave some figures in reply to a question by Mr Das the other day. I

told the House that in the first half of 1924 the imports of steel bars into India were 120,000 tons. In the second half of 1924 these imports dropped to 90,000 tons and in the first half of 1925 they dropped to 52,000 tons. I think that is a very striking fact. It is a fact which indicates that our policy is at last becoming effective and it is a fact which necessarily impresses my Honourable colleague on the right, because, as our policy becomes effective, so our revenue from our protective duties on steel are bound to become less and less. That, Sir, is the reason why we were surprised in getting the recommendation from the Tariff Board for enhanced bounties. In January the position of the industry was critical. Now the industry is in a very much healthier condition and therefore we were rather surprised to get a recommendation for an increased measure of assistance. But, Sir, the Tariff Board's recommendations are perfectly logical. I expect that Honourable Members realise the method adopted by the Tariff Board. When they first put up their scheme for protection in 1924, naturally they had to arrive at some measure of the protection required, and their first task was to arrive at a fair estimate of the cost of production in India and a fair selling price for locally produced steel. The House will remember that the fair selling price they arrived at was Rs 180 for certain classes of steel and Rs 175 for structurals and steel of that kind. Then they had to arrive—and this is the method they have adopted in this last report—at an estimate of the price the Tata Iron and Steel Company are likely to obtain for their steel during the next 18 months. They have made the best estimate they can and they have reported their results in this report. The difference between the two—the fair selling price for locally produced steel and the price the Tata Iron and Steel Company is likely to have—represents the measure of protection required. Then, Sir, the Tariff Board set to work to try and forecast the amount of steel on which bounties will have to be paid, which the Tata Iron and Steel Company were likely to produce in the next 18 months. Having arrived at these two factors, namely, the difference between the fair selling price for locally produced steel and the price the Company is likely to get, and the amount of steel on which bounty is required, all that the Tariff Board then had to do was to make an arithmetical calculation. They made certain adjustments and arrived by that method at the result that the amount of bounty that we ought to give to the Tata Iron and Steel Company is Rs 90 lakhs. The scheme is a perfectly logical scheme. It is carrying out to its logical conclusion the scheme put up by the Tariff Board in 1924.

But, Sir, the Government of India have to look at this matter from rather a different point of view. The Tariff Board took a perfectly detached point of view in considering this question, but we have to take rather a different standpoint. I should like at once to make this point. Though we have thought it necessary to make some reduction in the proposals of the Tariff Board, I hope the House will not think that we are in any way weakening in our policy of protecting the steel industry. That, Sir, is not the case, and I say it most emphatically. We have to take various considerations into account. In the first place, though the Tariff Board had naturally to adopt this method in arriving at their estimate of the amount of protection required, that is to say, they naturally have had to bridge the gap, I beg the House to observe that we on the Government Benches have been always careful to safeguard ourselves against any impression that we would guarantee the Tata Iron and Steel Company any partic-



price I made that point clear in my speech introducing the Steel Industry (Protection) Bill. It is quite impossible for Government to guarantee to any Company any particular price.

The next point I desire to make is this. The House must remember that bounties are a very much more generous form of assistance than increase of duties. In the first place, when you increase the duty it is very rarely that our local manufacturers get an increase of price exactly equivalent to the increase of duty. In the second place, the House must remember that if we had put on an offsetting duty instead of proceeding by way of bounties, we should have been justified, in fact, it should have been our duty if prices of imported steel had increased, to take steps to take off or to reduce such offsetting duty. Here we are asking the House to pledge itself to a scale of bounties for the rest of the life of the Steel Protection Act. That, I think, is a very important point.

Thirdly, I do not think the Tariff Board have taken into account one fact. In making the adjustments to which I have just referred, that is to say, in calculating the fair price of locally produced steel, they took into account the reduction in the cost of internal production caused by the increase in exchange. But they took that into account only in respect of what they call the bounty steel. We have to treat the industry as a whole. The industry makes what the Tariff Board call the bounty steel and they also make what the Tariff Board call other steel, and we think that they have not taken into account, in estimating the amount of bounties required, the effect of the higher exchange on the cost of production of that other steel. If you apply, as we have done in the Commerce Department, the Tariff Board adjustment not only to the bounty steel but also to other steel it means that the amount of bounty might legitimately be reduced by Rs 10 lakhs. There are other considerations of this kind which we have got to bear in mind. In the first place, though the Tariff Board's estimate of the surplus revenue from these protective duties is as accurate an estimate as could be made, still it is only an estimate. Under their proposals there is only a margin of Rs 24 lakhs. Personally we are inclined to think that that margin is too small and we have also got to remember that we are dealing here with the tax-payer's money, that there are many other commitments of Government and we have got to be careful that we are not too generous to one firm at the expense of other legitimate claimants upon us. But, Sir, and here I come to what I consider to be the most important point of all. We have another reason which has actuated our proposal. It is a reason which under the terms of reference the Tariff Board could not take into account, but it is a consideration which the Government and this House must take into account very much. The House must remember that bounties are rather a demoralising form of assistance, and the danger of bounties is that we teach the firm to whom we give those bounties to rely too much upon Government and too little upon itself. Sir, I am here on very delicate ground. I would not have trespassed upon it at all had not the Chairman of the Board of Directors of the Tata Iron and Steel Company referred to this point in his speech at the annual meeting. He said in that speech—I should like to read you the passage

“Now, gentlemen, I want you to listen to me very carefully. Make no mistake about this point. We hold this money in trust for you. But you yourself hold it in trust for the Indian nation which has at great sacrifice to the country and believing that the development of this great industry will strengthen and further the national growth, given you in the shape of protection more than the whole of the net profit

which we have made. The bounties on rails and the bounties on ingot steel paid to us during the last year in actual money exceed Rs 65 lakhs. And in addition we have the benefit of the tariff on other steel. In return for this the country expects us and you to build up as soon as practicable a strong and healthy industry able in course of time to stand without protection, capable of strengthening and supporting the industrial development of India."

When I introduced the Steel Protection Bill in May 1924 I made an appeal to the industry to co-operate with the Government and the Legislature. When I proposed bounties in January last I made that same appeal, and Sir, I feel that I ought to make that appeal again. I think the Chairman of the Board of Directors will bear me out when I say that hitherto there has been no response to that appeal, and that is a feature in the position which worries me most. The House has to remember that owing to the way in which the capital of this company is arranged, about two-thirds of the share capital takes the form of second preference shares, the interest on which is cumulative. For the past three years I think I am correct in saying that arrears of that interest amounting to about Rs 50 lakhs a year have been accumulated. There is a load of debt amounting to Rs 1½ crores on that score alone round the neck of the company, and I feel, Sir, that we in this House ought to send a message to-day to the Tata Iron and Steel Company that we expect them to take this matter in hand and that we expect them to co-operate with us in putting their industry upon a sound and healthy basis. We have placed a heavy burden upon the country. I think I am correct in saying that the Tariff Board in their first report estimated that burden at about 1½ crores a year. In addition to that, if my proposals are accepted, we will have paid during the life of this Act to this one company Rs 203 lakhs. I think that we have been—I do not go back upon that for a moment—we have been very generous to the industry, but I feel that the Government and this House have a right to claim from the industry co-operation with us in this matter. I am perfectly satisfied that, though we are not putting the company on velvet, yet we are giving them a very liberal measure of assistance and the figures in the Tariff Board's own report will bear that statement out. The only serious point that has been put to me by my Honourable friends opposite in this matter is, "Yes, but what will happen if exchange goes up? What will you do then?" Sir, I am not an exchange broker and I am not a prophet in exchange. I am not in a position to say whether exchange is likely to go up or to go down. (*An Honourable Member* "It is going up") But I do say this, that if exchange does go up to any serious extent for any prolonged period, then it will be a new factor requiring consideration. (*An Honourable Member* "And a new Resolution") In the meantime, I hope that the House will unanimously accept this recommendation of Government.

**Mr President** As in the case of the last Resolution moved by the Honourable the Commerce Member, I propose to allow a general discussion to proceed upon this Resolution also for some time and then to take up the amendments one by one.

**Mr C B Chartres** (Associated Chambers of Commerce Nominated Non-Official) I am sure I am voicing the opinion of many Members in this House when I say that I regret very much that the Commerce Member has been compelled to bring before us again a Resolution to give a further extension of bounties to the steel industry. When the Tariff Board submitted their original report and this House imposed an extra tariff to give protection to the steel industry there was at the time of the inquiry a

considerable amount of opposition from traders and users of steel throughout the country, but these traders and users subordinated what might be called their personal interests to the view that the steel industry was of national importance to India and the Chambers of Commerce agreed at that time, reluctantly I admit, but they did agree to the increased duties which were imposed and it was very unfortunate for the steel industry that almost immediately after the imposition of these duties the sharp rise in exchange enabled steel to come into the country so cheap that the effect of the protection afforded was of practically no use to the company and the company had again to come to this House for a bounty. The second report of the Tariff Board who have just inquired into the position at the present day has shown that this rise in exchange still exists and that the company again needs a considerable measure of support to enable it to carry on effectively at the present time, and I am glad to inform the House that the Chambers of Commerce of this country have authorised me to state that they fully agree to any action that is found necessary to keep this company going provided such support be given by bounties and I therefore beg to support the Resolution very fully.

The reasons which the Honourable Member has just given to the House for not accepting the recommendations of the Tariff Board in full have, I must say, carried a certain amount of weight with me, but I think there are other considerations which also have to be taken into account. The Honourable Member has told us that he has examined the Tariff Board report and that this examination shows that the Tariff Board have not made sufficient allowance for exchange adjustment on steel and he estimates the allowance under this head at 10 lakhs. I think there is another matter in which the Tariff Board have erred and that is in the allowance they have given for the profit on sales of surplus pig-iron produced by this company. I happen to know a good deal of the pig-iron market in my own business and I should be very surprised if the Tariff Board have not over-estimated under this head by at least 15 lakhs of rupees. Consequently this error neutralizes the Honourable Member's objection and it seems to me that the figure which the Government have now decided to adopt might have been a little more liberal. There is one other point of view that I should like this House to take into consideration. That is when the next inquiry comes along, we want to see this company in such a position that it will be able to compete without having to come to this House for bounties.

Now, Sir, I have examined these reports very carefully and the position of this company seems to be this, that on the production of pig-iron which is the first stage of steel, it is working very efficiently and can produce more than the expected output. In the third stage the Rolling Mills, where they roll the steel ingots and bring them to the form in which steel is sold, the company is also in a position to deal with very much larger quantities than it is now dealing with, and it is only in the actual steel manufacturing plant that the company requires some alterations in order to considerably increase its output. The effect of this increased output is very considerable when you come to consider the cost per ton of manufactured steel. I have jotted down a few figures and although the Tariff Board in this book think that 120 lakhs per annum should be enough as overhead charges for this company, personally I think they have underestimated. I think that the figure for depreciation should not be less than 90 lakhs per annum and taking into account the figure for interest on capital and the debenture interest, I will take the overhead charges at 150 lakhs

of rupees per annum, so that on an output of 300,000 tons per annum, which is the rate of output which is expected during the next half year, the overhead charges per ton of steel will be Rs 50. Now, I think it is greatly to the interest of this company to increase its output until it can use the whole of the pig-iron that is manufactured and keep its finishing plant up to full work and so reduce its cost to the lowest possible figure. Not only will the works cost come down but, if the output be increased to 400,000 tons, the overhead charges will come down by Rs 12-8-0 a ton. Now this figure is more than the bounty that the Government are offering the company to-day and the point I would make is that had the Government agreed to give the extra bounties which the Tariff Board now recommend on the condition that the company guarantee to employ 30 lakhs of rupees of that bounty to build a third steel furnace so as to bring the output of their steel plant up to the capacity of their blast furnaces and the capacity of their rolling mills, when the company comes to this House again in 1927, they would in my opinion be in a position to compete with the world's market without any bounty whatsoever. I would ask the Commerce Member very seriously when dealing with one of the amendments on the paper recommending this extra bounty if he would not consider accepting that recommendation provided that the company gave a guarantee such as that I have indicated. From an engineering point of view I am confident that that is the way in which this company will be able to get its works cost down and put itself in a position to compete with the world. I do not think I have anything more to say and I will simply repeat that I support this Resolution.

**Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber Indian Commerce) Interested as I am in the Tata Iron and Steel Company both as a director and a shareholder I felt that it might be unnecessary for me to take part in the debate to-day, but the latter part of the speech made by the Honourable the Commerce Member has made me change my mind. It is not only necessary but also incumbent upon me to put before this House the other side of the picture. I do not wish to-day to refer at all to the question of the adequacy or inadequacy of the relief which the Commerce Member said the Government of India are so generously offering to the company. It is I think very unfortunate that the company which happened to be in a position to help the Government during the war at great sacrifice to the interests of its shareholders as compared with what steel companies were doing in other parts of the world should have been a company consisting of private shareholders. If the Honourable the Commerce Member had every time that he referred to the "*generous treatment*" the Government of India gave to this company also said that the company had treated the Government of India not only generously but extravagantly at the expense of the shareholders during the war period, I would not have referred to this at all. But that, Sir, is beside the point. I only wish to bring this up because I feel that this House ought to be placed in a position to fairly judge what is "*generous*" on the part of my friend on the Treasury Benches and what is not. At present the Government of India are only making a deferred payment to the company for what they took from the shareholders of that company more or less under a moral promise which has still to be carried out. I wish, however, to put that on one side.

The Honourable the Commerce Member said that he was not an exchange broker and therefore he claimed all innocence and, if I may say so, almost ignorance regarding how fluctuations in exchange on the upward side may affect this question.

The House need not be reminded that, whilst the Commerce Member is not an exchange broker, he has at his very elbow the main operator in exchange in the Indian market, and he need not go far, Sir, to be wise in the future course of the rupee sterling exchange. Even a broker, well placed as he may be, has got to go to his client. The Commerce Member has only got to turn round to his esteemed colleague and there he has, without the slightest trouble, the most up to date information as to what is in store for India in exchange fluctuation.

**Mr M. A. Jinnah** · Which no broker can get

**Sir Purshotamdas Thakurdas** None else. However that is a matter which I shall refer to again. I do not say the Commerce Member should indicate to day which way he will work if any fluctuations come about in the exchange market.

As I said, my main reason for rising to address the House to-day is in connection with the appeal which the Commerce Member made to the company. He referred to a certain part of the speech of the Chairman of the Tata Iron and Steel Company, a part of the speech which I may say I had something to do with. I did not hear if the Commerce Member referred to that part of the Chairman's speech with approval, but I am sure he could not disapprove of that appeal that the Chairman of the Tata Iron and Steel Company made to the shareholders of that company.

**The Honourable Sir Charles Innes** May I explain, Sir, that I wanted to reinforce that appeal?

**Sir Purshotamdas Thakurdas** . I am very glad, Sir, that the Government of India have some things at least that they can approve of coming from Directors of the Tata Iron and Steel Company. But may I ask the Commerce Member whether the appeal he has now chosen to make is not too vague and too general? What does the appeal convey? There is a part of the capital rupees 7½ crores in preference shares, what do you want the company to do with that capital? Why not say definitely to the company, this is what you would like the company to do and give your reasons for it. As a matter of fact, Sir, I think I have been after the Commerce Member for more than a year now to get at what the Government of India think would be the right thing for the Tata Iron and Steel Company to do in order that the Government of India may help that company to build up, not necessarily a company which will yield large dividends to the shareholders, but what I am more concerned with, and what I am sincerely concerned with, to see a steel and iron industry in India which will enable us, within five, ten or fifteen years, to be independent of any imports from outside. May I ask the Commerce Member whether he has definitely told the company what he would like to be done, and whether he has definitely discussed it with representatives of the Tata Iron and Steel Company? May I ask him whether he has inquired if any difference has cropped up between the Directors of the Tata Iron and Steel Company and the Government of India? I am quite prepared, as far as my position is concerned, whether in my personal capacity or in my capacity as a director of that company, to agree to any vote that this House may pass in connection with what will be the fairest thing for the company to do by the tax-payer of this country. But, Sir, I strongly object, in an

important matter like this, to take, without challenge, the opinion of the Executive of the Government of India when we have radical differences of opinion with them. Let this House go into a committee on this question, let a strong, expert committee be appointed in order that the necessary terms may be laid down after hearing representatives of the Tata Iron and Steel Company. The shareholders have very material differences of opinion on this question with some of the views of the Government of India. I have been for the last year and more discussing these with very prominent shareholders of the Tata Iron and Steel Company. Many of these shareholders are men who are capable of looking at both sides of the question, namely, their personal interests as shareholders, and also how the company can be helped not only to live, but also to live in a manner which will make this country independent of having to import from outside. These shareholders, Sir, have advanced to me very strong reasons why some of the recommendations which have been put before the company till now by the Commerce Member cannot be and should not be accepted by the Directors of the Tata Iron and Steel Company. Sir, the position of the Government of India at times has been very peculiar. When the Tata Iron and Steel Company approached them for assistance, we were told at times that, after all, what matters to the country is that somebody should run the company, that the furnaces should continue to blow. With a mentality of that nature, and with a tendency in that direction, it would be very difficult for people, who have put up the money for this industry, years before the Government of India woke up to this industry, to accept as gospel truth whatever the Executive of the Government of India may choose to lay down. I say to-day, Sir, let the Honourable the Commerce Member move for a committee of this House to be appointed to consider the question. Let that committee discuss the question with the executive of the company and also hear the Honourable Members of the Governor General's Executive Council in this connection. I think that, after a full and fair discussion of this question, there should be no difference of opinion regarding what should be done in the best interests of the taxpayer and without hitting the company unduly and unfairly. But even leaving that aside, Sir, I feel the shareholders of the Tata Iron and Steel Company would have to, and I think they would be prepared to, accept the verdict of a committee of this House in this connection. Let us not grope in the dark, it is no use making vague general appeals which lead nowhere. Put something on paper, discuss it, when there is a specific difference of opinion let a committee of this House decide what they think would be the minimum that we would be entitled to ask from the Government of India until this industry is substantially built up.

I do not wish, in the slightest degree, to minimise the assistance which the Commerce Member and the Finance Member have agreed to give to this company till now. I realise, Sir, that, placed as we are in this very peculiar position, under this present constitution, without their consent and without the sympathy that they have shown till now, even what we have got up till now could not have been available. I am not blind to the fact that, in spite of having the best of cases, if they simply say "No" it is "No" for ever, and this House has frightfully restricted powers to force their opinion on the Executive, however strong the feeling in the House may be. I do not therefore say this or anything in a spirit of criticism or cavilling at the Government of India, but when the Honourable the Commerce Member chooses to get up in this House and make an

appeal to the shareholders, I do not want there to be any misunderstanding that, as far as the shareholders and directors of that company are concerned, we are prepared to meet and discuss. I *personally* feel that the directors and shareholders of the Tata Iron and Steel Company should be prepared to accept their verdict after an inquiry into the whole question by a committee appointed by this House, side by side with the Executive. I feel, Sir, that I am not asking anything too much. In fact I feel that, unless and until some method of this nature is adopted, the Honourable the Commerce Member will always continue to have a grievance against the company and against the shareholders, and the shareholders in their turn will always have a grievance against the Executive, who according to the ordinary shareholder of the company is suspected of trying to shake the shareholder out of what is his just due.

The Commerce Member, Sir, in a previous debate referred to things being put before his departmental committee, that is, the departmental committee of the Commerce Department. He particularly referred to those, I think on the suggestion made by my Honourable friend on my left Mr Jinnah that any proposals in connection with protection to an industry should hereafter be examined by a committee of this House. The Honourable the Commerce Member said, and he said that again in connection with the amendment of my Honourable friend Mr Dumasia which eventually had to be ruled out of the Bill that we passed yesterday, that he would put the matter before his departmental committee. I do not remember very accurately. Sir, if I have the honour to be on this departmental committee, but I have an idea that I was one of those selected by him for the purpose. May I ask him how many meetings he has had either this year or last year of his departmental committee? One wonders if these committees are more or less ornamental, for I think last year we were called to only one meeting and so far as the six months of this year are concerned we have attended none because none was called, in order to assist that Department. Therefore the departmental committee or advisory committee of this Department, Sir, is not the channel through which anything useful can be done.

This question of protection is one which gives rise to a series of misapprehensions and misunderstandings because the Government of India have not yet decided to get the House to agree upon or to lay down the minimum conditions on which an industry is entitled to protection.

**The Honourable Sir Basil Blackett** The Fiscal Commission

**Sir Purshotamdas Thakurdas** The Finance Member says the Fiscal Commission. Well, have you acted up to all the recommendations of the Fiscal Commission? What are the details? Does he contend that no details have to be worked out? If it is so and the Finance Member feels that the recommendations contained in the Fiscal Commission's Report are all that is required, why do the Government of India not get up and say in reply to what the Honourable Mr Joshi has been moving consistently and repeatedly that the question of labour does not arise on the question at all, and why do the Government of India not take the opinion of the House whether these amendments have the slightest sympathy of the House? The Fiscal Commission laid down the broad principles. The details must be worked out. I cannot help feeling that if this is to be carried out in this manner, I mean the question of protection by the Government, we may have to criticise the policy as being carried out more

in an amateurish way than in a thorough going businesslike manner. Let this House lay down what they think are the minimum requirements which they expect from any industry which asks for protection. Having laid that down, we will know exactly where we stand, and an industry applying for protection would have to work up to these minimum conditions. Then the question which will be a comparatively simple one to decide, will be—is the protection deserved or not on the minimum conditions we have laid down?

I feel, Sir, that I have spoken somewhat frankly. I felt that in order that this House may know exactly where the position stands I ought to do so to-day. The ordinary routine on these occasions, Sir, is for a person who is on the board of the company affected by the protection Bill to get up and say "I thank you very much, we appreciate your action very much and we are most grateful to you." If I have not said that, it is not because I do not mean it. The Finance Member may laugh as much as he likes, but I sincerely say on behalf of the Tata Board and the shareholders of the Tata Iron and Steel Company we are all grateful to this House and to the Executive for whatever they have voted in the past and whatever they chose to vote to-day.

**Pandit Shamlal Nehru** And in the future !

**Sir Furshotamdas Thakurdas** That is not for me even to expect ! But, Sir, as a Member of this House I feel that I would not be doing my duty either by the company on whose board I sit or by my colleagues in this House if I did not tell them exactly how the matter stands. It is now up to the Commerce Member to accept my suggestion asking this House to appoint a committee to hear both sides, find out what they would like and then send it to the Tata Iron and Steel Company, in case no decision is arrived at between the directors or representatives of the shareholders and the committee of this House in connection with the main subject about which the Commerce Member has made an appeal here. I therefore, Sir, with these words thank the House for having heard me without interruption, as was the case last time, and having heard me so patiently. I have tried my best to put before the House the reason why the details should be gone into and laid down very clearly by a committee of this House with the assistance of the Executive of the Government of India.

**Mr K C Neogy** (Dacca Division Non-Muhammadan Rural) Sir I have no desire to strike a discordant note on this occasion. Indeed, I stand by the policy of protection which this House deliberately adopted last year, but, Sir, I think on the occasion of such an annual stock-taking of the situation, it is permissible to put the point of view of the consumer in so far as it does not conflict with the interests of the trade itself. Sir, I think it is the business and duty of this House to adjust the conflicting interests of the consumer to those of the trade which it seeks to protect. I am led to make these observations in view particularly of the new situation that has been created since we discussed the Steel Protection Act in May of last year. This Resolution itself is an evidence of the new situation that has been created.

In the first place, the protective duties which this House passed last year have proved ineffective for the purpose for which they were



intended That is the main reason why we have this Resolution before us to-day, and the second circumstance is that the Government have actually collected much more in the shape of extra duties than they ever anticipated Otherwise there would not have been the wherewithal to pay the extra bounties Sir, when the Tariff Board considered this matter in 1924, they imagined that the proceeds of the extra duties would be just enough to balance the bounties that would be necessary to be given under their recommendations I would draw the attention of the House to paragraph 99 of their Report of 1924 on this point This is what they stated

“We fully recognise that the protection of basic industries by means of bounties has certain obvious advantages, but we fear that for financial reasons any scheme which proposed to accord protection to steel solely by this means must be dismissed as impracticable at present, and we need not dwell on the point further We have, however, considered whether a scheme could be devised of a combination of tariff duties and bounties so as to restrict as far as possible the burden on the consumer ”

Then they proceed to point out that, as their policy becomes effective, the higher duties will reduce the imports more and more, and therefore a time will be reached when there will be very little money with which to pay bounties, and that is the reason why they recommended a policy of combination of protective duties and bounties for a beginning

Now, Sir, it has been admitted in reply to a question that Government have derived a net profit of about 30 lakhs of rupees after meeting the demands of the bounties so far, and the Tariff Board in their latest report in paragraph 34 state that the increase in revenue is likely to exceed the payments on account of the bounty by 24 lakhs in the three years during which the Steel Industry (Protection) Act remains in force They arrive at that figure on the basis of the amounts which they recommended should be given in the shape of bounties But it has been stated by the Honourable the Commerce Member, the Government have no intention to give effect to their recommendation in this behalf in its entirety I therefore feel confident that the result of this will be that instead of leaving a surplus of 24 lakhs, in three years, the surplus in the hands of Government will come up to at least 70 lakhs, if not more Sir, may I inquire if in these circumstances the consumer has got any claim to relief? I do not mean that the amount of the bounty should be cut down, what I mean is that this amount should not be allowed to be collared by the Honourable the Finance Member Sir, I am perfectly aware of the fact that the Steel Protection Act will not come up for amendment till its full term of three years has been run But what is there to prevent the granting of rebates in regard to certain items in the schedule of duties which, on consideration by the Government and by this House, may not justify the high duties that have been imposed on them? Sir, I would in this connection refer to the case of galvanised sheets as an illustration The Honourable the Commerce Member will remember that I had a minute of dissent appended to the report of the Select Committee on the Steel Protection Bill in which I dealt with the case of galvanised sheets It is not my intention to disclose what passed in the meeting of the Select Committee, but I am sure that neither the Honourable the Finance Member nor the Commerce Member will deny that the case for galvanised sheets, so far as the duty was concerned, was a very weak one

Mr Devaki Prasad Sinha Then why did you support it?

Mr E C Peogy I shall give the explanation for it presently Well, Sir, on the canons laid down by the Tariff Board itself, the high pro-

protective duty sought to be imposed on the galvanised sheets could not be supported when we came to consider that Bill. And what was the attitude taken up by Government in that connection? They got me to drop my suggested amendment almost at the point of the bayonet as it were, because Government would have dropped the Bill, if I had insisted on my amendment. Well, Sir, I have no desire to go at length into what took place in the Select Committee, but I think it will not be denied that the only justification for putting up the rates on galvanised sheets was not that this was a fit case for protective duties, but that Government wanted money with which to pay out the bounties.

**The Honourable Sir Charles Innes** Sir, I should like to explain that I do not admit the statement just made by the Honourable Member, nor do I admit that I got him to do anything.

**Mr K C Neogy** I would expect the Honourable Member to deal with these points when I have finished my speech. I find that the Honourable the Commerce Member challenges the position taken up by me. I would refer him to the first Report of 1924 of the Tariff Board. If we turn to the table which they append to their report at page 162, we find that this is the only item in which as much as two-thirds of the burden falls on the general consumer as distinct from the Railways, Government departments, public bodies and the principal industries.

Sir, I will now turn to another figure. What is the average quantity that India consumes in galvanised sheets? The Tariff Board estimated our future requirements at 105,000 tons annually. But we find from their latest report that this estimate has been falsified, and that the quantity which they now calculate as representing our annual requirements is 210,000 tons, and the net increase in revenue which they expect from this head is 25 lakhs and odd in 1924-25, 34.2 lakhs in 1925-26, and 32.4 lakhs in 1926-27. That is to say, this furnishes the heaviest item of net increase in revenue from the protective duties. Now, Sir, how much of this quantity are the Tatas expected to manufacture? In the report of 1924, the Tariff Board expected the Tatas to manufacture 8,000 tons in 1924-25, out of which they have not manufactured even half, that is to say, they have manufactured less than 4,000 tons. In 1925-26 the Tariff Board expected the Tatas to manufacture 15,000 tons, while as a matter of fact they have manufactured only 13,200 tons. In 1926-27, the Tatas are expected to manufacture 18,000 tons. When we reach that figure, which is the maximum laid down in the Tariff Board Report, that will represent about 1/12th of the total quantity consumed by India. Now, I ask the Honourable the Commerce Member, if he can justify the high protective duties on galvanised sheets in these circumstances?

Sir, I have already shown that you are taxing the general consumer a little too much over this item. And I think that, when you have such a large amount in your hands as surplus after meeting the claims of bounties, this House should insist on the Government reconsidering their policy in regard not merely to galvanised sheets, but to such items generally as come into consumption in very large quantities by the ordinary people, and which the Tatas are not expected to manufacture in any large quantities in the near future.

Sir, in this connection I would remind the House, although I may be accused of raising a parochial point, that galvanised sheets are very largely in use, even among the poorer classes, in the province which I

have the honour to represent in this House, and the high duty which the Government have fixed on this item is working very harshly so far as the large portion of the consumer in Bengal is concerned

**The Honourable Sir Charles Innes** It is not borne out by imports

**Mr K C Neogy** Well, the import duties have put up the prices. The Honourable Member cannot deny that. I think, Sir, that in these circumstances, a review of the whole matter is very necessary. I am not the man to dogmatise on these matters, but I would implore the Government either to ask the Tariff Board to go into this question very carefully and recommend as to whether, in view of the unexpectedly large increase of the import duties, the tariff schedules should be revised, or whether any other relief can be granted in the shape of rebate or in any other form which the Tariff Board may consider fit and proper. As I began by saying, I have no desire to oppose this motion, and I hope that the request which I make will be borne in mind by the Government and the matter will be investigated by the Tariff Board.

**Mr President** Since the general question has been sufficiently discussed, I will take the amendments now, unless Sir Basil Blackett wants to reply on any of the points which have been raised on the general question.

**The Honourable Sir Basil Blackett** (Finance Member) Sir, there are one or two points which have been raised on the general discussion, which I propose to answer, but I should be quite willing to do so later.

I do not propose, Sir, to attempt to follow the Honourable Member who has just spoken and re-open the whole question of the Steel Protection Act. His speech will be very much to the point a year and a half hence when we are considering the renewal of that Act, and I have no doubt that he will very forcefully make the point that there are some duties in the Act as it stands which are high from the point of view of the consumer. It would hardly be in his mouth to make that complaint now unless he confesses (which I rather began to think is the confession behind his speech)—unless he confesses that he has weakened in his support to the policy of the protection of steel. It is perfectly true that

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we have had rather more revenue from these protective duties thus far than we originally estimated and that galvanised sheets are responsible for a portion of the increase. But the main portion of the increase was due to the very large imports that took place just in the first few months or the early portion of the period during which the Act was enforced. To say that that shows that the policy has been unsuccessful is I think incorrect. The Honourable Member who just spoke said the policy was ineffective, but it is proving very effective as I know from the figures showing a considerable reduction in the receipts from the customs department, from receipts other than galvanised sheets. The estimate that the Tariff Board have produced is not one which we desire to challenge but it certainly does not leave a large margin and I myself should not be surprised if it is rather an over-estimate of our total receipts during the period. One of the main reasons why receipts have increased is that after the Tariff Board's first report was produced there was a general fall in the price of steel, both British specification and Continental,—a very considerable fall not only in the rupee price but also in the sterling price, and I think one reason for the considerable imports of galvanised sheets now is that, in spite of the

increase in duty, the cost has come down so much that the consumer is willing to pay the price

I will not attempt to follow the Honourable Member further. I rose mainly to deal with one or two points that were raised by Sir Purshotamdas Thakurdas. First of all, with regard to the question of exchange. The Honourable the Commerce Member said that, in the event of there being a serious and prolonged rise in exchange, a new situation would arise and it would be in such circumstances that we should have to reconsider the question of the amount of the bounty. It is not I think possible to go beyond that. It is not possible to make any reasonable arrangement in advance to deal with an emergency of that sort. The effect of a rise in exchange depends very much on the circumstances in which it occurs. It is not of course possible to say that, if you require X per cent protection with exchange at 1s 6d you require 20/18 of X per cent protection, if exchange goes to 1s 8d. That is simply an impossible way of looking at the situation. But I hope that the question may not arise. Speaking in Bombay in July, I said on behalf of Government that the Government had no desire to see exchange rise above what would be the gold point at 1s 6d, namely, 1s 6<sup>3</sup>/<sub>8</sub>d in existing circumstances, especially in view of the fact that there was no tendency for prices to rise but, on the contrary a tendency for prices to fall. I repeat that statement on behalf of Government. We have no desire at present to see any rise in the exchange. We naturally cannot commit ourselves to any view as to what the final future of the exchange rate should be. For that we are waiting for the report of the Currency Commission. But pending the receipt of the views of the Currency Commission, we have no desire to see exchange raised above 1s 6<sup>3</sup>/<sub>8</sub>d and, though I have seen many statements in the Press questioning the capacity of the Government to make their desires effective, I can assure the House that in my opinion there is not the slightest doubt that we have full power to make our desire effective. I will say no more about exchange.

I will say one or two words about the question as to what it is that the Government desire to see the directors and shareholders of the Tata Iron and Steel Company do. Sir Purshotamdas Thakurdas spoke about differences of opinion between Government and the directors. I do not think my Honourable friend the Commerce Member, had any such difference of opinion in mind nor do we feel that there is any such difference of opinion. Sir Purshotamdas Thakurdas knows the difference of opinion that there has been between the directors and the shareholders, and I think it is a matter for the directors and shareholders to settle for themselves.

**Sir Purshotamdas Thakurdas** May I, Sir, say at this stage that the directors are trying to carry into effect what the Government of India want? Now, whatever the directors did put forward practically reflects if not totally certainly in the major part, what the Government of India have indicated as desirable in their opinion. Therefore, it practically comes to a difference of opinion between those who are interested in these industries and the Government. I submit, Sir, that what I have said is borne out by what the Finance Member himself has said.

**The Honourable Sir Basil Blackett** I do not desire to chop logic. The position of the Government of India is quite clear. They are desirous of making effective their policy of protecting the steel industry. They

never have been concerned in protecting the Tata Iron and Steel Company as such. So far as this House is concerned, the desire of this House is to see a strong steel industry established in this country, and, in view of the fact that the Tata Iron and Steel Company is the one company which is at the present time seriously engaged in producing steel, obviously the financial position of the Tata Iron and Steel Company is a matter of very considerable interest both to the Government and to this House and to the nation. The financial position of the Tata Iron and Steel Company is a somewhat difficult one owing to the fact that, as pointed out by the Tariff Board in their original report, there is a considerable amount of capital which cannot be expected to earn a return. The Government's view has been quite clearly stated to the company, that this ought to be dealt with. It is not for the Government to lay down the exact terms on which it should be dealt with, still less is it for the Government and a committee of this House to consider what terms Tata's directors should suggest to their shareholders for dealing with this difficult situation. But I do think that it is right that the Government and this House should make it clear to the Tata Iron and Steel Company that their policy is to enable the company to earn a reasonable return on the capital which is really engaged in turning out steel and it is not the policy of the Government or of this House to put a company in a position out of bounties, voted at the expense of the tax-payer, to pay the arrears of dividends on second preference shares. I cannot say more than that I do not think it is for me or the Government to enter into details. If I did so, I fear that, if Sir Charles Innes has been accused by Sir Purshotamdas Thakurdas of being vague, I should probably be accused by other people of being perhaps too precise. I have no further observations to add on the question as a whole except that I hope I may make an appeal to the House, in view of the shortness of time at our disposal, to get ahead with the business.

The motion was adopted

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Thursday, 10th September 1925

RESOLUTION *RE* GRANT OF PROTECTION TO THE PAPER INDUSTRY

The Honourable Sir Charles Innes (Commerce Member) I beg to move

“ That this Assembly recommends to the Governor General in Council that assistance be given to the bamboo paper and paper pulp industry in India by the imposition until the 31st March 1932 of a specific protective duty at the rate of one anna per pound on all printing papers (other than chrome, marble, flint, poster and stereo) which contain less than 65 per cent. of mechanical wood pulp and on all writing paper ”

Sir, the agenda paper to day is a very long one and I see from it that there are an unconscionable number of motions against my name and an unconscionable number of amendments to those motions. That being so, I hope the House will excuse me if I try to spare them as well as myself by being as brief as possible in moving this Resolution. I think that I can take it for granted that all Honourable Members present here have read the Tariff Board's Report on paper and that fact in itself will lighten my labours considerably. Before I get down to my task I should just like to make an apology to the House for the short notice which I have given them of this motion. I should like to say that we gave notice of my Resolution at the earliest possible date and if we gave short notice it was because we could not help ourselves. I hope that the House will not think that I am rushing them in this matter. I have put down a Bill to be introduced in the event of my Resolution being accepted. The reason why I have done that is that, as the House will see, we have disclosed our hand in this matter. We have made our proposals for protective duties on certain classes of paper. Therefore it will be very inconvenient for the paper industry if we have to defer that Bill to the beginning of the next Session, because what will happen is that the importers will lay in large stocks of the papers on which we wish to impose protective duties, and those large stocks will for a time at any rate render nugatory whatever measure of protection we propose. That is the reason why I am in the painful position of appearing to rush the House in this manner, and I hope that the House will accept my assurance that I have done so much against my will and without any desire to force them into a premature decision.

Now the Tariff Board's task of course was to decide whether the paper industry has made out a claim for protection. The paper industry may be divided roughly into two classes. There are the mills which make paper from grass, mainly *sabai* grass, and there are the mills, which make paper from bamboo. The latter class is at present a small one. There is only one mill in India which at present makes paper from bamboo grass, and that is the mill belonging to the Indian Paper Pulp Company which has a maximum output of 2,750 tons of paper a year. In addition there is another mill which I understand is in course of construction at Rajahmundry in the Madras Presidency. That mill aims at making paper from bamboo as well as from straw. Now in considering this question the first point that the Tariff Board were brought up against was the fact that the scope for the expansion of paper-manufacture in India is comparatively limited. They devoted a good deal of time and attention to a careful analysis of the consumption of and demand for paper in India. The possibility of expansion can best be measured of course by the volume of

imports of paper into India For the last two years the imports of paper into India have averaged about 80,000 tons of paper a year That seems a large amount, but from it certain deductions have to be made In the first place these imports include large quantities of old newspapers These old newspapers are not imported for the purpose of satisfying the insatiable desire for information they are imported solely as wrapping paper, and they come in so cheap that no Indian mill can possibly hope to produce wrapping paper at anything like the same price Therefore, those imports of old newspapers have to be deducted Similarly there is a very large import into India of what is called newsprint, that is paper on which newspapers are printed It is made very largely from what is known as mechanical wood pulp, that is, pulp made by grinding wood fibre without the addition of any chemicals The Tariff Board have excluded newsprint also from the market which the Indian manufacturer can hope to capture I think that possibly one reason why the Tariff Board did that was that they considered discretion to be the better part of valour I have no doubt Sir George Ramey, who like myself is a Scotchman and therefore a peaceful and cautious not to say a timid person, thought it advisable not to get the Press up against his proposals But, however that may be, there was another much more serious and well-founded reason for this action This newsprint, besides being absolutely necessary in India, is so cheap that Indian paper could not compete with it unless we put on a perfectly outrageous degree of protection Then again there are certain papers, either paper of special kinds such as rag papers, and straw boards, mill boards and the like which are not made in India and have to be excluded, and if we make all these deductions, we find that the scope of expansion for the paper industry in India is not more than 20,000 tons a year That is not a very large amount, but it is the maximum possible amount at the moment No doubt as time goes on, in India as in other countries the consumption of paper will get greater and greater but we have to consider what it is now

Then, Sir, the Tariff Board proceeded to distinguish between the two classes of mills to which I have referred, namely the grass mills and the bamboo mills, and to consider separately their claims for protection They take first the mills making paper from grass, by which is meant from *sabai* grass In regard to these mills they make one reservation There is a mill projected but not yet built at Saharanpur in the United Provinces The Tariff Board think that the prospects for a grass mill at that place may for special reasons be favourable But subject to that reservation, they come definitely to the conclusion that the existing grass mills do not satisfy the conditions laid down by the Fiscal Commission That is to say, in so far as the paper industry of India is dependent on grass for the manufacture of paper, its claim for protection fails I have no doubt that that finding of the Tariff Board came as a great disappointment to a distinguished Member of this House, but the Government have no hesitation in accepting that finding I do not know whether the House will expect me to go at any great length into the reasons which actuated the Tariff Board in arriving at that conclusion I will deal with them very briefly Their definite finding is that the existing paper mills using *sabai* grass as their chief paper-making material have no natural advantage, and that on the contrary they are at a disadvantage Now first there is the quality of paper made from *sabai* grass It has certain merits particularly as writing paper It is a most excellent writing paper On the other hand it has certain defects which militate against its usefulness as

a printing paper. Efforts are made to minimize those defects by mixing imported wood pulp with the *sabai* grass. But even so the result is not entirely satisfactory and the Tariff Board find that the *sabai* grass paper cannot meet all the reasonable requirements of consumers in India, that it has only a limited usefulness, and that there is no room for the extended use of this paper in India. Now that is one reason. There is another reason. I have mentioned just now that the Tariff Board find that *sabai* grass paper has no natural advantages but that on the contrary it is at a disadvantage. This is very largely due to the fact that, no doubt owing to internal competition among the mills themselves, they have had to go further and further afield for their supplies of grass, and moreover they have had to pay a heavier and heavier royalty for the right of collecting that grass, and the result is that grass is now an expensive material. The Tariff Board find that the claim fails because they see no reason to hope that the mills using *sabai* grass will ever be able to do without protection, and if we protect them, they will always be a burden round our necks. The case of bamboo paper is different. We have had sufficient experience of making bamboo paper in India now to know that excellent paper can be made from bamboo. For certain purposes it is not as good as paper made from *sabai* grass, but a special advantage of paper made from bamboo is this that that paper approximates much more closely than paper made from *sabai* grass to the paper made from ordinary chemical wood pulp. That is to say, paper made from bamboo is likely to meet in greater measure the requirements of consumers in India and is likely to have a bigger market. Then again bamboo paper has a great advantage over paper made from grass in its supplies of raw materials. I have just mentioned that the mills have to go further and further afield for *sabai* grass but everybody knows that the supplies of bamboo in India are very abundant indeed and they are very widely distributed. Only a proportion, and a steadily diminishing proportion at that, of India's demand for paper can be met by *sabai* grass paper, on the other hand, there is reason to hope that if we can develop the making of paper from bamboo in India we shall not only be able to supply practically all our own demands for paper, but that also in the future we may build up a very important export trade in bamboo pulp, and the Tariff Board find that as the cost of chemical wood pulp goes up, as imported paper becomes more expensive, there is reason to hope that bamboo paper will in time be able to dispense altogether with protection. I have just mentioned that chemical wood pulp, and therefore paper, is likely to go up in price, and this brings me really to what is one of the most important factors in the case. The Tariff Board after inquiring into the matter and examining all the available literature on the subject came to the following conclusion

"The world's supplies of coniferous woods are steadily diminishing, while the demand for such woods, whether as timber or for pulping, is increasing. As a paper making material wood must become more and more expensive, and an increase in the price of paper seems inevitable. But it is impossible"

they say

"to forecast the date when the price of imported paper will go up substantially and it may not take place for several years to come"

I had recent confirmation of that statement of the Tariff Board in a report of which I saw a notice in a paper the other day, a report from Canada where it was stated that the Canadian paper makers are getting seriously alarmed at the rate at which supplies of coniferous woods in Canada are



being diminished and that they thought that before very long—I think the actual period put was 10 years—there must be a very serious increase in the price of wood pulp and therefore of paper. Now, at this point the Tariff Board came up against a difficulty. The general lines of their conclusions were clear, but their difficulty was that the possibilities of bamboo paper have not yet been fully tried out in India. They are merely in process of experiment. As I said, there is one mill making this paper in India, at the present time, that is, the Naihati mill, encouraging results have been attained. It is quite a recent mill, but it has already brought its works cost down considerably below the works cost of the very much older grass mills, and that is an encouraging sign. That mill is trying out one of the processes by which you can make paper from bamboo pulp, namely, the sulphite process, but it cannot try out the matter properly because though it is a mill which was designed and built and has a power plant equipped for two paper machines, so far only one paper machine has been installed, and the result of that is of course that costs must be high, because the overhead is so great. Then, again, there is another process, the soda process. That has not been tried at all in so far as bamboo paper is concerned, and moreover very important modifications of that soda process have been developed at any rate on a laboratory scale at Dehra. I refer to what is called fractional digestion.

Now the Tariff Board consider that both those processes ought to be properly tried out, the sulphite process and the soda process, and therefore they are not able to commit themselves at present to a final decision whether we should embark finally on a permanent policy of protecting the bamboo paper industry. Consequently, they make what I might call *ad interim* proposals. In the first place, their first proposal is that on writing papers and certain classes of printing paper the existing duties of 15 per cent *ad valorem* should be raised to a specific duty of one anna. They suggest that those duties should be imposed for a period of 5 years and that they should be imposed on writing papers and on certain classes of printing paper. In addition they suggest that a loan or a guarantee of debentures should be given to the Indian Paper Pulp Company to enable them to instal a second paper machine at Naihati. The Tariff Board say that that second paper machine would cost Rs 10 lakhs. I understand that the cost will be rather greater, but not very much. Thirdly, they suggest that an inquiry should be made into the prospects of the mill which is being constructed at Rajahmundry and that if that inquiry satisfies the Government of India that the prospects of that mill are really good, then a loan, or similar assistance, should be given to the Carnatic Paper Company which owns that mill to enable it to try out this soda process. The House will of course observe that that is a complete scheme, all the parts of which are interdependent. The tariff protection is intended to keep the industry alive, while these processes are being tried out. I do not propose to discuss the question whether the actual rates proposed by the Tariff Board are right or not. I think that we must accept the Tariff Board's opinion in that matter. I will not say that the protective duties which the Tariff Board propose are light duties, because they are not, but the Government are quite prepared to accept the finding of the Tariff Board that those duties are the minimum necessary for the purpose in view. I should also like to say that the Government quite accept the finding of the Tariff Board that we ought to make an effort to protect the bamboo paper industry.

for a period of years in order that these possibilities may be tried out. There is no difference between the Government and the Tariff Board in that matter and I can assure the House that we on these Benches are just as anxious to get ahead with this matter as any one in this House can be. But there is a difference of opinion between the Tariff Board and the Government and that is on the question of subsidies, and I should like to explain that it is because of that very difference of opinion that I have proceeded by means of a Resolution instead of putting up my proposals in the form of a Bill. I understand, Sir, that according to the rulings given by your predecessor in the Chair, it would not be in order for any private Member of this House to propose subsidies in a Government Bill which proposes only tariff duties. And it is because the Government were anxious that the whole matter should be open to the discussion of the House that we have elected to proceed by Resolution, so that we may discuss the whole matter.

I should like to explain—and I conceive that this is my main duty—very briefly the reasons why the Government have found themselves compelled to differ from the Tariff Board in regard to this question of subsidies. I will take first the proposed subsidy to the Naihati Mill. This mill is owned by the Indian Paper Pulp Company. I am quite prepared to admit that the proposal is in a way an effective proposal and it is a logical proposal. It is very important to have this sulphite process tried out. And it cannot be properly tried out as long as this mill has only one paper machine. Therefore, lend it the money and let it put up another machine. I quite agree that this is superficially an attractive and is a logical proposal. But there are certain difficulties in the way of this proposal which have impressed the Government of India very much indeed. The House will realise that we have to look at this matter from a slightly different angle of vision from that of the Tariff Board. Now, our first difficulty is this. The Indian Paper Pulp Company is not even a joint stock company. It is a private company consisting, I believe, of three or four shareholders. The second difficulty is that one of the owners of the company is the owner of the patent process which is now being tried in the mill. The Tariff Board's proposal, therefore, is that we should advance 10 lakhs of rupees to a monopolist in order to enable that monopolist to try out a process which is covered by patent rights. That seems to us a very great difficulty indeed. Our third, and possibly our greatest difficulty of all, is this. We feel that if Government does give financial assistance to industries, it should be the sort of financial assistance which is equal for all competitors in that industry. Now, you have here a number of mills. Some of them are making paper from grass and one of them is making paper from bamboo. They are competing with one another in the Indian paper market, and we feel very great difficulty in advancing money to one of those mills and thereby giving it an advantage over its competitors in the Indian market. We think that such a course on behalf of the Government of India would be extremely difficult to justify. Moreover if we adopt this proposal we doubt very much if we can stop the subsidy to the Indian Paper Pulp Company. As soon as the Tariff Board's proposal was published we got applications from other companies in India making paper from grass. They told us that they were considering changing over from grass to bamboo and they asked that if we gave financial assistance to the Indian Paper Pulp Company we should

also give them assistance for installing machinery for making bamboo paper. I think the House will agree with me that we should have found ourselves in an extraordinary difficulty had we accepted this proposal of the Tariff Board.

Then, again, much the same objections apply to the somewhat conditional proposal of the Tariff Board that we should give assistance to the Rajahmundry Mill. The soda process which it is proposed should be tried out in the Rajahmundry Mill is also a process which is covered by patent rights. Moreover, as soon as the Rajahmundry Mill begins to make paper, then, again, it will be competing with other mills in India. The Government of India are in a different position in this matter from a Provincial Government. A Provincial Government, quite legitimately I think,—because the development of industries is a transferred subject—may give special consideration to industries in its own province. And if there is one mill only, which is a pioneer industry of that province, then the Provincial Government no doubt can consider whether or not it should assist that mill. But the Government of India are in a different position. We have to take India as a whole and we have to consider the industries of the whole of India. Now, I hope that the House will agree with the proposal that I have put forward namely, that, had we accepted these particular proposals of the Tariff Board that we should grant subsidies first to the Paper Pulp Company and then, in certain contingencies, to the Rajahmundry Mill, we should have found ourselves in an extremely invidious and difficult position. I hope the House will agree that in a matter of this kind the policy of Government should be that it should not discriminate unfairly between particular firms competing in an industry. Therefore, we devoted a great deal of time and care to try and find out an alternative solution. As I said we are very anxious to carry out the spirit of the Tariff Board's proposal. We are very anxious, in view of the Tariff Board's recommendation, to do what we can to help on this bamboo paper industry. That is why we have submitted this alternative proposal. The Tariff Board say Give this protection for a period of five years. Our suggestion is that we should guarantee the protection for practically a period of seven years. The additional two years ought to give both to the Naihati Mill and the Rajahmundry Mill about just as much money as if we gave this subsidy. And we suggest that this is a much better way of achieving the end in view. We hope that, as we are offering the protection for a period of two years longer than is proposed by the Tariff Board, the shareholders of the Indian Paper Pulp Company and the promoters of the Karnatic Mills will be able to obtain from the public or put up themselves the necessary money for the trying out of this process. I have said that we are proposing to guarantee this protection for seven years, but I must make it plain that if after a reasonable period of time we find that no effort has been made to try out these processes, then we shall again have to come before the House and we shall have to consider with the House whether or not we should repeal this Bill. We shall not be able to take any action of that kind ourselves. It will be a matter for decision by the House.

I should just like to explain now why we have called the Bill the Bamboo Paper Industry (Protection) Bill. I have noticed that Mr Kelkar and some others have got amendments down on the paper in

regard to that point We are following here the recommendation of the Tariff Board They recommend that we should bank on the bamboo paper industry and that is the industry that we should protect But I would draw the attention of the House to the fact that our import duties would protect all mills alike The grass mills will get the benefit of these enhanced duties as much as the mills that are making paper from bamboo That action, I think, is right, because here again all the mills which have invested money in this industry will compete on equal terms whether they are making paper from bamboo or from grass

Now, Sir, that is my case and it is for this House to decide whether they are prepared to accept these proposals or not The Tariff Board say that the burden on the consumer will amount to about 20 lakhs of rupees a year It is for the House to decide whether they think it worth while to place that burden upon the consumer We are prepared to accept what the Tariff Board say on that point I should like to read an extract from paragraph 163 of the Report

"The issue which the Government of India and the Legislature will have to decide is clear and well defined If no assistance is given, it is probable that the manufacture of paper in India will cease, with a somewhat remote prospect of revival when wood pulp has grown very dear The question for decision, therefore, is whether it is worth while to keep the industry going at what in all the circumstances is a moderate cost, or whether it must be left to its fate For our own part we feel strongly that the disappearance of the industry at the moment when the use of bamboo opens up fresh avenues of development in the future would be very regrettable, and we believe that the proposals we have made are in accordance with the national interest "

I hope, Sir, that the House will accept the proposal that I have made As I have said, we on the Government Benches are very anxious to make a start in this matter and that we should do what we can to help this industry to go ahead If the House will pass my Resolution, I hope they will also agree to pass my Bill to-day because this is almost the last day on which, if we pass the Bill through the Assembly, we can pass it through the whole Legislature

Sir, I move my Resolution

**Sir Willoughby Carey** (Bengal European) Sir, I wish to declare the fact that I am interested in one of the paper mills, but I appear to-day to speak on behalf of the industry as a whole, and not for any particular mills

**Mr Devaki Prasad Sinha** Including the special mills ?

**Sir Willoughby Carey** Yes, certainly

Sir, we have heard the proposal of the Honourable Member for the imposition of a specific protective duty of one anna per lb on all printing papers, with the exception of a few special kinds, the supply of which are not at present obtainable from the factories in the

present established industry both working this fibre and also as a matter of necessity to meet the mills working with other fibre—that this tariff is proposed. This is a central, because, at present constituted the majority of the mills are not working bamboo, some may never be able to work bamboo, but others will. There are at present eight mills in India, some of which have been shut down for considerable periods owing to the rise in exchange and increase in post war costs, but chiefly due to foreign competition assisted by the exchange. It is for this reason, they are unable to pay any dividends, that they have arrived at the present position. We have persistently applied for the protection of the industry, in fact ever since the Industrial Commission first set in 1916. From the year 1910 onwards, Germany and Scandinavia in both but principally Germany, made a decided attack at the Indian market in all kinds of paper, and for 18 months before the war and for some period after the commencement of the war, they were unable through this intense foreign competition to show anything in the way of profits. I do not attempt to define “dumping.” It is altogether too controversial, but the fact remains that the surplus production of mills in other countries was put down here in India and sold at prices which to the best of our information it could not be produced at, and below the price in those countries themselves. This gave rise to the belief that now, as then, the same position is being reproduced. The war assisted the Indian mills to make good profits for a time, out of which some of them were able to pay their shareholders for a short time dividends which gave them an average over the previous ten years of about 10 to 12½ per cent thus compensating them for the years in which they had received nothing. This, I think, Sir, the House will agree, is after all a fair return. The balance of profits during this short period of prosperity was placed to reserve, depreciation renewals on machinery, modernising plant, and generally attempting to put the mills in a position to meet competition as far as possible when this period of prosperity had come to an end, as it was anticipated it must sooner or later do and as a matter of fact it has done.

I think, Sir, it will be agreed that this was a reasonable method of dealing with these exceptional profits for the benefit of the industry's future. As a result—here I am venturing to differ slightly from the opinion of the Tariff Board—these larger mills are now to a great extent modernised and up to date as compared with paper mills of the same age in other countries. Hopes were entertained that post war conditions would prevent the very keen competition which existed before the war. The general slump all over the world has proved that this is not to be the case, and for the past two and a half to three years the industry has again been faced with much the same sort of competition, assisted still further by depreciated foreign exchanges, which they suffered from before the war, with the result that the appeal for protection has been made in order to avoid the complete extinction of the industry which otherwise—if the present recommendations of the Tariff Board had not been accepted by the Government—must have occurred. We are indebted to the Government for their referring our claim to the Board and giving us a chance of making our case, and on the principle of the half loaf for their accepting the Board's recommendations—at any rate as far as they have done. I should like also to say that the industry is indebted to the Tariff Board themselves for their very keen and earnest endeavours to get down to the situation, to the actual facts, and to deal

with them in the best way, and for their very courteous and helpful methods of examination (*The Honourable Sir Charles Innes* "Hear, hear") During the whole period when the examination was going on, I should like the House to realise that the industry has not been sitting idly waiting but has been continuously pressing forward with improvements, in qualities of paper, in modernising of plants, in new systems and methods tending to reduce cost,—some of which arose out of suggestions made by the Board during examination, but many of which were already in the programmes of the mills which had so far survived but which they had not had the funds to go on with, and some of which still remain necessarily to be completed This line of action was taken in the confident hope that the Tariff Board and the Government and this House would recognise this industry as one essential for the country, and would make some recommendation to save it, such as this which now lies before the House And I trust, now that the Government have made their recommendation, that the House will justify the faith of the industry and will accept it and put it into immediate force India, no less than other countries, must have this essential industry firmly established all the time There were 8 mills, of which 5 only are at present working, one of them only tentatively, and with their Local Governments' support, and the remainder working on reduced outturn and showing a steady monthly loss This last condition, as I have already said, has been one of the regular features of the industry for the last two years or more and I am advised that, unless this protection is afforded by the Assembly, there will be no alternative but that the remaining mills also will close and the industry will be lost for ever to India We have heard some remarks from the Honourable Member already on the subject of the possibility of this industry having to close down I would like the House to consider what this would mean Primarily it would throw many thousands of men and women out of employment—men and women of a class trained for the last forty years or so in paper-making and practically in paper-making only It would mean a loss of wages to the country from this industry of 29½ lakhs per year, (which includes 8½ lakhs paid annually to labour upcountry for collecting the raw materials which the industry uses), a loss of 16½ lakhs direct revenue to the State in railway freights, 2½ lakhs loss to Government for royalties It would also mean endangering the rosin trade, built up by the Forest Department, of which the paper mills are the best customers by a long way It will also mean a certain loss from rates and taxes, and also the throwing on to the markets of large quantities of coal, lime and all sorts of other indigenous materials There would be also an almost certain impossibility of being able to revive the industry if once the present mills are allowed to close I say this because, even supposing India has a vast store of raw materials in the future, when the scarcity of wood supplies raises the price of wood pulp to a figure with which perhaps Indian pulp might compete, yet those who might otherwise have been tempted to come in will certainly think twice when once the industry has been allowed to die out And even supposing capitalists bold enough might be found, yet even then the whole work will have to be done over again to re-establish the industry Another danger which I think has already been pointed out but I think not clearly enough would be one which it is possible to read from the lessons of the war I remember when giving evidence before the Industries Commission the question was raised as to why it was necessary to

protect an industry of this kind. Why not let it die? It was agreed then, Sir, that paper must be one of the essential industries of the country, in the event of war. And there were two or three years during which the supply of paper from outside the country for military purposes, post and telegraphs, railways, hospitals, general administrative government work, and so forth, was almost entirely provided by the mills then existent in the country. Further than that, the mills then in the country supplied the Ceylon Government post and telegraphs and as far afield as Hongkong and even Australia, owing to the fact that, while transport was possible from India to these countries, transport from Europe was not. In the same way transport from Europe was so continuously interrupted that over and over again all these activities which I have mentioned, and the Press itself, would quite possibly have had to close down temporarily and the general administration would have been seriously interfered with, to say the least of it. In this way, I may claim that perhaps the paper mills are just as essential a part of the life of a country, particularly a large country like India, as steel works or any other industry.

There are two main objections which, as far as one has been able to see from objectors' evidence and from press reports, have been raised to this small additional tariff which is now being proposed—(Mr. Devaki Prasad Sinha "Small?")—and they are on the score of education

12 Noon

being made to some degree more expensive, and secondly that the publishing industry in the

country might suffer with a slight increase in the price of cheap literature. It is recognised by the industry that cheap literature and cheap education are both essential, but the incidence of the increased tariff is infinitesimal per head when you come to education, compared with the cost of the other essentials for educating the people, such as school buildings, land, furniture, teachers and all the other essentials. Apart from this I understand that a great deal of the primary education is conducted with the use of slates and black-boards, so that the argument with regard to education, when you get down to it, is really not a very strong argument. Then, with regard to publishing, the idea is not so much to raise the price of paper from the indigenous mills by this tariff but to suggest to the consumer that he should, as far as possible, use the product of those mills instead of foreign goods for his printing. What the industry wants is to regain its markets and get the quantities which will enable them to work at full output and so to reduce their overheads, which markets at present, without this small increased tariff, they cannot hold because of foreign competition.

As regards quality, improvements are taking place constantly with the introduction of the better methods which have become possible by the expenditure of the reserves on plant, and I have here with me a book of all the qualities of the mills which will show that there is very little indeed of ordinary printing or writing papers which the mills cannot make even to-day with the exception, of course, of specialised qualities made from fibres not existing in this country, and with which the industry cannot at present be expected to compete. The question of quality is one which is always receiving attention and I think I am not wrong in saying that it has in the last two or three years been vastly improved and with better processes will improve still.

As regards the Press, Sir, those presses which have always used or can use foreign mechanical paper will still be able to use it because we had a discussion with the Tariff Board and willingly withdrew the request for protection of this class of paper and of any other definite classes of papers with which we cannot compete. Those, on the other hand, of the presses who have been in the habit of using Indian made paper will still be in a position to do so, perhaps even more advantageously than now, when it is clearly understood that it is market and quantity that the industry asks for, not so much an increase of price.

One further argument which may be fairly used in favour of this increase in tariff is, I think, the fact that the Directory of Tariffs of all the world shows that every country in which paper is manufactured at the present time has taken stringent measures by tariffs to protect its factories. If I might give a few figures, Germany at the present time protects printing paper and writing paper at specific duties varying from 18 to 32 per cent, America 14 to 59 per cent, Japan 10 to 16 per cent, Canada 25 per cent, and France, Belgium, Italy, Scandinavia and other competing countries have all in the same way large tariffs in protection of their own mills, so that India will be by no means singular in wishing to protect this industry and keep it alive. I think, Sir, this is probably evidence that these countries all feel that paper mills are an essential part of their national life and that is why they wish to keep them going. Free trade as a principle is no doubt very sound and it has been of the very greatest value to some countries, but in an industry such as this, where every other country protects itself, free trade is surely an anomaly to the country which does not.

I believe and hope, Sir, that I have said enough to convince this Assembly of the desirability of this measure as proposed by the Government, and I repeat that the industry is duly grateful for this consideration which, I hope, will to-day receive the imprimatur of the House. This, if done, will encourage the industry to expand, and revive hope in the minds of those responsible for conducting the industry, who are themselves so largely financially interested in seeing it expand. I would remind the House that this is an industry in which a preponderating proportion of financial interest is now Indian. Even in those mills which are apparently run by European firms that is the case. The majority of my own mills' shareholding is in Indian hands, and four of our Directors are well-known Calcutta Indian business men, and I believe that some of the other mills which are not entirely and absolutely owned and run by Indians have the same record to show.

It is also an industry in which there is a possible future for many Indian educated men to take part. The question has been raised by the Tariff Board and elsewhere as to how far the industry is prepared to teach Indians the trade. Well, Sir, ever since I have known it, there have been opportunities given to men to come and learn. The Indian mills, of course, have sent men abroad or had them taught in India and they are now doing work in those mills. In the other mills a great deal of technical work, such as Chemistry, which is most important, is already in the hands of Indian educated trained men. We have in the mills in which I am particularly interested 5 Indian apprentices in training now. I would recommend in this as in other technical subjects that it would be advantageous for young men of sufficient education and a good physique, which is necessary because it is a hard, damp and trying industry, to take



a portion of their training in some other country where mills are more varied in type and where processes are more constantly being renewed than has been possible in India up till now, and where also they would have the very great advantage of first-rate technical schools and institutes within easy reach. A training of that sort would fit men of the right kind to come into the Indian mills and take the place of technical men whom at present we have to import. It may perhaps even be possible to suggest to the Government that they might provide facilities in the way of special technical training by scholarships abroad.

The Honourable Member and the Tariff Board both mention a possible expansion in bamboo. I should like to say that in addition to the sulphide process about which the House has been told the soda process has been worked in the mills with which I am connected and we have experimented with it for many years in fact ever since 1912. We have made considerable quantities of paper from bamboo by the soda process and have worked both for ourselves and for Government in pure pioneering work since that date, and have at the present time a plant ready in the country for erection. So far, the failure of markets has prevented the raising of capital to enable this to be gone on with. There might have been much further development in this direction perhaps in Burma but for the fact that the Burmese Government made conditions very difficult by not being willing to give a concession for longer than 21 years for the working of bamboo, which of course was a period insufficient to assure the return of capital even on a successful venture during that time. Also other difficulties existed in Burma in the direction of the riparian rights on the big rivers, the bamboo cutting rights, and so forth, which were vested rights and which it was very difficult indeed to overcome. The passing of the tariff will encourage those responsible undoubtedly to go on with it, possibly elsewhere, and to work it so as to get commercial results as soon as their finances permit. I think very likely that other mills in addition to those that have already touched it or those which are proposing to do so, will be encouraged by the increased security of markets to consider the use of bamboo in paper making in due time, by which time those who are at present working will have obtained a certain amount of definite commercial results. I would suggest that when the time comes these processes and the assistance of them may be taken further into consideration and if necessary some assistance given later in making this development easier. In the meantime, the pioneer work will go on, and if successful, must be a great asset to the country.

If I may be allowed one criticism of the terms of the Bill, it is the omission of Browns and Badamis from protection. These are commonly used as writing papers, and are by no means only to be included under the heading of wrapping papers. Then also Manillas should have been included as these are the chief source of Indian postcards and also the Indian quality has a large general sale which will now probably disappear. Another point of criticism which I wish to make is that no provision has been made to protect the trade against rises in exchange. On page 30, paragraph 47 of the Tariff Board's report they state

"The tariff machinery must, however, make provision to safeguard industries from the injury they may suffer by sudden fluctuations in exchange."

Sir, I submit that the Government Resolution and proposals do not provide this machinery. We have seen the pernicious effect of this omission in another case by which another industry has been forced to come again

and again to Government in order to make up the necessary margin to enable them to live, which was anticipated when the tariff was imposed they would have had, but of which they have been robbed by the successive rises in exchange. Sir, it seems to me that the present would have been a favourable opportunity for starting a machinery such as is mentioned, which would in this trade and in others have obviated this constant need for application for further assistance, with all the waste of time to the industry itself, to the Government, and to this Assembly, involved in each instance. I admit that there are very well known difficulties and that other countries which have attempted this automatic adjustment have found it difficult. But which is better—to face these difficulties now at the outset of a fresh tariff, or to face a possible and almost certain recurrence of these applications for assistance? It seems to me, Sir, that it should be possible, although those more versed in the special line of tariffs may possibly say that there are difficulties even in this—it seems to me that it should be possible to make a half-yearly adjustment, not retrospective, but covering the following half-year automatically by taking the average rate of exchange for six months and fixing a duty based on it as the rate for the following six months.

**Mr B Das** May I know whether the Honourable Member wants to fix the exchange at 1s 4d or 1s 6d? What is his idea about the fixity of exchange?

**Sir Willoughby Carey** I am not talking of fixity of exchange at all.

**Mr B Das** Would you like to have a fixed rate of exchange for such periods of six months?

**Sir Willoughby Carey** No, Sir. I think the Honourable Member is not following me. I should be very pleased to discuss that with the Honourable Member at any time. An arrangement of this sort should not surely cause a great deal of trouble in the Customs, and would ensure that whatever the rises were in exchange, sooner or later the industry would recoup their losses. This industry has been driven very hard against the wall in the last two or three years, and is very nearly at the end of its tether, and therefore even if I trespass in making this suggestion I trust that I may be forgiven, and I recommend it to the consideration of Government if exchange rises. The Honourable Member when speaking of the grass mills said—

**Mr President** Order, order. Considering the great importance of the subject I have allowed him sufficient indulgence. I hope that he will now bring his remarks to a close.

**Sir Willoughby Carey** Very well, Sir, I will finish at once. I have now placed the case before the House. Owing to the peculiar circumstances of the case which have been explained to us, in order to prevent any possibility of the passage of the Resolution and the Bill being delayed until the next Session, with the certainty of the country being flooded with foreign goods, I would request the House to accept and pass this Resolution and in due course the Bill, to-day. I sympathise with many of the amendments on the paper but much of what the Honourable Sir Charles Innes has told us seems to me to deal with a good many of them and I accept his explanations. For the time, therefore, I trust that one of them will be pressed to the point of jeopardising the passage of the Resolution and the Bill to-day, and so at least give the trade a half loaf to keep them from immediate starvation.

**Mr Devaki Prasad Sinha** (Chota Nagpur Division Non-Muhamadan) I rise to oppose this Resolution wholesale Sir, for a long time we in this country have been accustomed to many kinds of epidemics. People suffer from the epidemic of plague, the epidemic of cholera, the epidemic of small-pox, but under the new regime of the Reforms Act a new epidemic has been let loose upon the people of this country in the form of an epidemic of protection (*An Honourable Member* "What about unemployment?") Sir, a year ago we were discussing whether to grant protection in the form of bounties and protective tariffs to the iron and steel industries in India or not. Some of us apprehended that once we encouraged the policy of protection we shall be flooded with applications for protection from all parts of the country. Well, Sir, our apprehensions have now proved true.

**Mr A. Rangaswamy Iyengar** It was a certainty all along.

**Mr Devaki Prasad Sinha** We have in this country an infernal nuisance called the Tariff Board which invites all people to come before it with a begging bowl and we have here a benign Government which listens to all applications forwarded to it through the Tariff Board for inflating the dividends of a few capitalists. Sir, I know that my humble voice of protest against this policy of robbing Peter to pay Paul will not have much effect here, but I feel that I shall be lacking in my sense of duty to my constituency and to my country if I do not in unmistakable terms declare that the present measure which is supported in the name of Indian nationalism is no patriotic cause at all but a measure for deceiving the large bulk of the nationalist population in this country who are guided by vague ideas of patriotism into doing things which are clearly against the interests of the vast bulk of our countrymen (*Honourable Members* "Question") Well, Sir, my Honourable friends do question this, I know that, and I also know the reason why my Honourable friends question it. Well, Sir, the arguments which we have heard this morning advanced—I fully believe in the public interest—by my Honourable friend Sir Willoughby Carey are the usual arguments advanced in favour of protection whenever protection is demanded by any capitalist. We have been told, and very cleverly, that the first danger which faces us is that a large number of labourers will be thrown out of employment. Well, Sir, the concern which our capitalists show for the cause of labour and the interest which they manifest in labour employed in certain industries are well known to Members of this House. Capitalists in India more than capitalists elsewhere regard their own dividends and the profits of the middlemen as the first charges on their industry and the protection which they demand at the hands of Government is not protection for an industry which they describe as a national industry but protection for their own dividends and protection for the profits of the middlemen. We have been told that if the paper industry is allowed to sink down, it will be very difficult to revive it again. If it is an industry in which there is something intrinsically wrong, and is incapable of competing with industries in other countries, then it is the duty of the capitalists first to improve their machinery and to bring about a better method of production because after all when this industry prospers and when they are enjoying dividends they would not come to the State and return the money which they have taken from the State in times of necessity. The income and the dividend which they will derive if this industry prospers

will all go to fill their own pockets. If it is an industry which is described as a national industry and which, in the words of Sir Willoughby Carey it is necessary to preserve for the maintenance of the national life of our country, then I believe that the only effective remedy that can be applied to remove the present diseases in the industry is to nationalise that industry. If the capitalists want subsidy, there is no difficulty in finding money, but when we want to be given what really belongs to us in justice and in equity, then my Honourable friends the capitalists and the bogus capitalists of this House like Mr B Das and others raise the bogey of poverty before us.

**Mr B Das** Is the Honourable Member entitled to call me a bogus capitalist?

**Mr N M. Joshi** Is "bogus capitalist" a Parliamentary expression?

**Mr President** Mr Devaki Prasad Sinha

**Mr Devaki Prasad Sinha** I know, Sir, that capitalists are always adept in the art of making their own material necessity appear as moral virtues for a country (*An Honourable Member* "Like lawyers") The demand for protection in this country is backed by the patriotic sentiments of a large bulk of educated opinion in our country. I admit that I do not overlook that fact, but the fact that at present the majority of educated Indians are in favour of a policy of protection is due to the widespread propaganda carried on for securing their favour by the resourceful and unscrupulous capitalists of this country (*Honourable Members* "No") I hope that some day we shall realise that the Indian capitalists are as much a danger to our country as the British Government itself.

**Mr B Das** Mahatma Gandhi says so

**Mr Devaki Prasad Sinha** Mahatma Gandhi says so and his interpreter Mr B Das explains his views to us. Protection, if it is necessary for any industry, should be given first of all to that industry which is the oldest industry in the country and which feeds all other industries, namely agriculture. If agriculture—which I do maintain, in spite of the laughter of my agriculturist friend Mr Gaya Prasad Singh, is the largest industry—receives protection, the purchasing power of the community will increase and the demand for all articles produced in the country will consequently increase. The result will be that all our native industries would receive a natural stimulus which no State aid can provide. Although we listened to the speeches of His Excellency the Viceroy and His Lordship the Secretary of State about their proposed programme for an agricultural revival and an agricultural improvement in this country, when we come to concrete facts we find proposals for protection to be given to industries that are anything but national. In this case we are discussing whether we should grant protection to the paper industry or not. To put it plainly we are discussing whether we should impose a tax upon education or not. In my province at any rate, the average cost of educating a boy in the primary schools is about Rs 3 per year. My Honourable friend Sir Willoughby Carey says that the rise in the cost of education of a boy will be very infinitesimal. Well, Sir, I do not know what experience my Honourable friend Sir

Willoughby Carey has of primary education in the rural areas. In our province at any rate I find that whenever we make proposals for the expansion of primary schools and for educating more boys in the three R's we are faced with the difficulty of finding money, although any amount of money which can be spent on spreading primary education would be so much benefit conferred directly on our people. Here in this case, Sir, we are imposing taxes upon the spread of knowledge and the spread of democratic ideas in our country. Then again the tax on paper will also produce a very bad effect upon vernacular journalism in this country. (*Cries of "No, no"*) Yes, it will. If my Honourable friends will only have the patience, I shall explain what I have to say. It is well known that if one kind of paper receives protection and the price of that paper goes up in the market, then it has its effect upon other kinds of paper as well, and, Sir, I believe that the first industry to be affected on account of protection being given to the bamboo pulp paper industry would be the vernacular press in this country. (Laughter) Well, Sir, I believe that in due course this Resolution will be passed and in a few minutes we shall also have on our Statute-book a law declaring the grant of protection to the paper industry, and I also believe that next year the paper industry will, like the Tata iron and steel industry, come up for additional protection from us. I believe that our patriotic leaders, like Mr Jinnah and others, will say, 'what does it matter if we take 60 lakhs or 20 lakhs or 30 lakhs from the taxpayer? Let us pay that to the rich industrialists in Bengal or Bombay.' Well, Sir, I know that with many of our countrymen the demand for self-government is nothing but this: they want an unrestricted right to exploit the vast bulk of our countrymen undisturbed by capitalists abroad. (*An Honourable Member "Question"*) (*Cries of "Hear, hear"*) I do hope that in the near future we shall realize the dangers from this mischievous policy which is being pursued by a section of our countrymen. To-day we have not got the resources with which the insidious propaganda that is carried on by capitalists in all parts of the country can be combated, but I hope that the conscience of the people of our country will soon be roused and they will realize that a demand for protection in the name of a nationalism is nothing but a demand for self-aggrandisement at the cost of the vast bulk of our countrymen. For these reasons I oppose this Resolution, which I submit is the first of a series of proposals for granting protection to various industries that do not deserve any protection at all. (Applause)

**Mr E G Fleming** (Burma European) Sir, the Tariff Board in their Report at page 71, section 111, state

"Five sites were selected by Mr Pearson and Mr Raitt as being those where the exploitation of bamboo as a paper making material could best be attempted in the near future."

Of these, three sites were in Burma. Honourable Members may have seen an amendment which I have submitted and in view of this paragraph may have thought that that amendment was frivolous. I maintain that that paragraph of the Tariff Board is misleading and to those who are uninformed it will give a wrong impression. My Honourable friend Sir Willoughby Carey has already informed you of the experience his firm had when they attempted to start bamboo pulp making in Burma, Pegu district. Some 12 or 15 years ago, that is before the war,

the firm I was connected with in Burma investigated the possibilities of starting the bamboo pulp industry on the reports received from the Forest Department, but the prospects of the venture proving profitable on a commercial scale appeared so unlikely that the consideration of the proposition was abandoned. I have it on reliable authority that recently the area in the Arakan Division near the port of Akyab, has been thoroughly investigated and nothing has materialised, if the propositions have not absolutely been abandoned. There are sixteen thousand square miles, according to Mr Pearson's estimate of rustling bamboo jungle, which must be a wonderful sight, one of those places where every prospect pleases and only man is vile. To turn to Tenasserim Division near the port of Tavoy, I possibly am the only person present who has had the experience of residing in that delectable district for any length of time. My Honourable friend, Mr Roy, may possibly have visited Tavoy district in the course of his duties and he will know something of the jungle there. It is admitted that bamboo is very prolific in that district but in the Tariff Board's Report they themselves state that conditions are favourable, except that coal would have to be imported by sea and labour would also have to be imported. These two points I fully endorse, but there is one further point that the Tariff Board have omitted to lay stress upon. That is climatic conditions. With your permission, Sir, I will read an extract from Mr A W G Bleek's paper on some occurrences of Wolframite lodes and deposits in the Tavoy district, which was included in the Records of the Geological Survey of India, Volume 43, pages 18 and 49.

"The field work which furnish all data for this paper, was carried out during the months of August and September. Only those who have passed through a rainy season in Lower Burma can appreciate the difficulties and discomforts of outdoor work during these months. In a sparsely populated country, where rest houses are few and far between, and where roads are either non-existent, or in a very bad condition, where the jungle is practically impenetrable, and finally where the ordinary conveyances such as bullock carts, boats and coolies are difficult to obtain, it was naturally impossible to go very far afield."

That note terminates with this remark on the climate.

"The climate is by no means all that could be desired. The jungles are infested with mosquitoes, sandflies, etc., and every precaution must be taken to guard against fever. The rainfall is a very heavy one, close upon 300 inches per annum, and most of this falls between the middle of April and the end of October."

That, Sir, is the district in which you would have to import your labour to make the bamboo pulp industry. That is the district that the Tariff Board deem fit to express as a place where the conditions are favourable for the exploitation of bamboo and for making bamboo pulp. That statement, I maintain, is incorrect, nor will it be possible to develop the bamboo pulp industry in Tavoy district on a large and commercial scale until some means are found to combat the scourge of Tavoy fever in the jungles, and transport conditions are improved. On the whole, I submit that the prospects of developing the pulp industry in Burma still seem to be a long way off.

Mr N C Kelkar (Bombay Central Division Non-Muhammadan Rural) Sir, I move the amendment which stands in my name, namely

"That after the words 'the bamboo' the words 'and grass' be inserted."

On the general question I need not say anything. I have anxiously considered the advantages as well as the disadvantages of the duty that is

going to be imposed, and I have come to the deliberate conclusion that it is in the interests of my country that this duty should be imposed. About the amendment, I will say this, that it is intended mainly to prevent obliteration of grass as raw material from the minds of the Government and the public, which obliteration, I am afraid, will be the result if the word "bamboo" alone is kept in this Resolution and no mention of "grass" is made. My purpose, if I may put it in another way, would be served if the word "bamboo" is omitted as an alternative. I will at once make my position clear. Not that I object to the word "bamboo" being there, but I insist that if the word "bamboo" be there, the word "grass" also as a companion raw material must be there. You should either take away both the words or keep both the words, for both of them are nearly of equal merits in the field of raw materials which have been having a trial for a long time. Grass perhaps had even a longer time of experience than bamboo. It is true that protection, that is now being given, is taking the form of an import duty, and therefore the possible benefits of the import duty will be automatically absorbed by all kinds of paper mills in the country. I can quite understand that argument, but that very argument militates, in my opinion, against the special and exclusive mention of bamboo. If by the present measure your only object is to give protection to the paper industries of the country then why should you insist upon keeping the word "bamboo" and insist at the same time upon omitting the word "grass"? If it were a case of giving a subsidy, as has been adverted to in the recommendations of the report, then perhaps there might have been some point in saying that, whereas a specific subsidy is being given to a particular industry, namely, the bamboo industry, therefore the word "bamboo" must be retained. But if, according to the admission of Sir Charles Innes himself, the relief to be given is in the form of protection only, then I do not think there is any harm in either inserting the word "grass" along with "bamboo" or omitting both the words from the Resolution as well as the Bill.

Now, I have tried to understand why the word "bamboo" has been retained. Possibly such a special mention may have been intended to express the advertence to the judgment passed by the Tariff Board upon the comparative merits and prospects of paper made from bamboo and grass. But if you go into the discussion of the merits of both these kinds of paper, which is contained in the Report itself, you will find that both these raw materials run almost close to each other in point of efficiency as raw materials. Any impartial reader of the discussion of the merits of the two raw materials in the body of the Report will find that, whereas the Tariff Board started and for some time even developed a scrutiny into the merits of the two raw materials with a sort of impartiality, as soon as they arrived towards the close of the Report and were on the point of making recommendations, the spear point of partiality was forced in favour of bamboo, and grass was allowed to drop through the fingers. The one thing that I have observed, in carefully reading the body of the Report, is this that, though it appears that the Tariff Board has expressed a favourable judgment for bamboo and against grass, the judgment is obviously tentative. And who knows that in course of time, even perhaps a very short course of time, if the Tariff Board were again called upon to revise its judgment, it

would not revise that judgment? The reason is this. A very large number of variable factors necessarily enter into the production of both kinds of paper, for instance, the crop of the raw material, supply of coal or fire-wood or the generation of electric power, or the rate of labour wages prevailing in the locality, the facilities of transport etc., etc. Now, all these are so many variable factors which go either to make the industry economically advantageous or disadvantageous. For the moment perhaps it happens according to the evidence placed before the Tariff Board that the Tariff Board thinks that the paper made out of bamboo has a good prospect before it and its manufacture will be beneficial. But I submit that that judgment must be taken as essentially tentative because it depends mainly upon so many variable factors.

As for grass, you will find favourable references to it in the body of the Report itself. Sir Charles Innes has drawn your attention to some passages of the Report about bamboo. I would like to draw your attention to some passages in the body of the Report relating to grass. The Tariff Board has assumed that there is an initial difficulty with regard to grass. It thinks that you cannot get clean grass. On page 64 however, you will find this passage

“ This difficulty of obtaining clean *sabai* grass is only a minor disadvantage, which it should be possible to overcome ”

Then later on referring to Mr Pearson's evidence the Report says

“ In giving evidence before us Mr Pearson said that he adhered to his previous statements, subject to the qualification that there was more grass in the Sewaliks than he was then aware of ”

Here is an instance of an expert revising his own judgment and naturally, as evidence grows, experts will have to revise their opinions hereafter also. So my contention is that the opinions of these experts on a matter like this should not be regarded as conclusive and final. All such judgments are bound to undergo revision according to the evidence discovered. Then on the same page (65) the Tariff Board makes the following statement

“ On behalf of the Bengal Mill it was said ‘ the supply of grass is largely dependent upon labour and transport ’ ”

They have obviously been referring to the variable factors which I have mentioned. The Report continues

“ Eliminating these two factors, there has never been a time when ample grass has not been available for our requirements, in spite of competition from other mills. Extension of the railway system opens up vast areas ”

—that is how unfavourable factors are eventually got over—

“ and we look upon the supply of suitable paper making material in India as unlimited ”

Then on pages 67 and 68 you have the following statements. Before I read this statement I may say that it is generally agreed that grass has no inherent disadvantages as such. There are no inherent disadvantages but only extraneous disadvantages, which naturally can be got over under conceivable conditions of improvement. Paragraph 105 of the Report says

“ We think the evidence justifies us in saying that, the conditions of the Indian paper market being what they are, and with pulping wood at its present price, the paper mills in India, which use *sabai* grass have no natural advantage in competition with imported paper, but on the contrary are at a disadvantage. India may possess



an advantage, however, in so far as it may be possible to erect paper mills in the immediate vicinity of the raw materials, provided a site can be selected where cheap hydro electric power is available."

That means that, if new coalfields are discovered, if fire-wood becomes suddenly and unexpectedly available, if electric power schemes are designed and constructed, and the whole scheme of local conditions improve, then what was at one time considered to be impossible would at once become possible. Therefore Sir, I still contend that the expert's opinion or judgment in a matter like this ought to be accepted with caution and not in a cocksure manner. Here again in paragraph 106 of its Report, the Tariff Board says—

"But the estimate that was placed before us"

—speaking about the effort made by the Titaghur Paper Mills—

"But the estimate that was placed before us of the cost of grass pulp in such a mill had not been sufficiently considered and is without value, without evidence. The success of the scheme depends entirely on whether cheap electric power is available, and on the local supplies of fire wood. If the conditions are *unsatisfactory* in these respects, we are not satisfied that the scheme would reduce the cost of paper made at Titaghur."

That means that, if the conditions are favourable, what was found impossible would become possible. Therefore, again I contend that the judgment of the experts ought to be regarded only as tentative.

Then *per contra*, at page 69 we have got considerations set out against bamboo also. So the House will observe that the merits of bamboo and straw or grass are very nearly equally balanced, and it is perhaps I think only an accident that the merits of Bamboo as raw material have been regarded as predominant as between the two.

Then, finally, I will only say this, that by way of summing up as it were the merits, the Report says, on page 80

"It is clear, we think, that the grass mills in Bengal and the United Provinces could not continue production and would have to close down."

if timely protection were not given to them. Now supposing the recommendations of the Tariff Board were accepted as the best judgment that could be relied upon as coming from a body of experts, then we might have to take up the recommendation, which is now turned down by Government, of giving an actual subsidy of 10 lakhs to one mill. If that expert opinion were faultless, I ask, why did the Government turn down that particular scheme of giving a subsidy of 10 lakhs? Therefore, I think the opinion of the Tariff Board is not infallible, and in my opinion the Tariff Board has unconsciously shown a sort of undue inclination of judgment, I will not say partiality, against grass and in favour of bamboo.

There is one more delicate consideration which, however, I must mention. The scheme of subsidy which the Board has mentioned goes to benefit a company which has no Indian directorate, which has no Indian shareholders, and which has no Indian capital—precisely the conditions which have been laid down as guidance for us in affording any measure of protection to any industry when we passed the scheme of protection to the steel industry at one of the previous Sessions of the Assembly. That again shows, in my opinion, that the Tariff Board proceeded with a sort of undue inclination in their mind towards a particular company and a particular industry which, I think, was not quite fair. Has similar help been given to experiments made with grass as

raw material for paper? If that could be pointed out, then perhaps I may acquit the Tariff Board of this undue inclination or partiality. Now the Board, I think, owes it to itself that ground for objection should arise to concessions to bamboo paper, or a concern which does not satisfy the conditions just mentioned.

One other point that I wish to make is that apparently the possibilities of grass paper have not been fully explored and have not been given up as hopeless. Some mills are at present going on with grass as raw material, and I think there is just a fair prospect of other mills also taking to the manufacture of paper with that material. The Saharanpur Mill has already been mentioned, but I would in this connection refer to a letter which I received the other day from a friend of mine who is an enterprising industrialist and is just going to launch a paper factory in my own province, the Maharashtra. He says this.

“ You know, I am interested in a scheme for making paper from grasses in the Khandesh district. I have had experiments made in England from these grasses, and very good paper can be made. I brought out an English paper expert to India at my cost, and after getting a favourable report from him, I submitted a scheme to the Bombay Government. The Bombay Government after satisfying themselves have given me an agreement in the name of the Secretary of State allowing me certain concessions to use forest grasses in the Khandesh district, near the Tapi river at concession rates. My scheme would require a capital of 30 lakhs ”

—not a small sum—

“ Now the Dehra Dun paper expert of the Government of India wants that my grasses, although they may have given satisfaction to the London expert, must satisfy the Dehra Dun test. I do not know what this means. However, we are confident that our Khandesh grasses will satisfy Mr Raitt, the Dehra Dun expert, and I am asking this gentleman to put to the test these grasses as much as he likes. Meantime, the Tariff Board wants to give financial aid only to a European firm which wants to make paper only from bamboo. Bamboo is a good material, but it does not mean that you should shut out grass from Khandesh if it is found to be a good material.”

That supports my point, that the possibilities of grass as raw material have not been quite exhausted, for different localities favour different raw materials. Burma may favour bamboo. In Khandesh perhaps you cannot have any bamboo, but you can get abundant grass on the river side. If grass is not in the immediate vicinity of industrial centres, then we can conceive of capitalists taking their concerns and mills right up to the place where you can get the raw material and if in course of time we get good control, as we want it, over the administration of Railways then we can make the Railways arrange for concession rates for the transport of manufactured goods from the factories to the markets. My point is that the industrial survey of the country from this point of view has not been completed, and who knows that the industrial survey if it is pursued in the proper spirit, will not disclose new coalfields, new schemes or possibilities of electricity, new fields of labour and new facilities of transport. If all these are realised then what was impossible becomes at once possible, and you will find that grass has in its favour predominant advantages over even bamboo. We have seen that the owners of match factories, for instance, are already thinking of removing their factories from industrial centres to the forest where they can get raw material enough.

Mr President The Honourable Member has exceeded his time.

Mr N C Kelkar And I have finished my speech, Sir. For all these considerations it would be unjust to confine the protection to bamboo and to condemn grass.

'Diwan Bahadur M Ramachandiah Rao (Godavari *cum* Kistna Non-Muhammadan Rural) Sir, the only point that I would like to raise is whether this Resolution which says that there should be an imposition of protective duty should in its terms confine it to the bamboo paper and paper pulp industry. The Honourable Member who has moved this amendment himself referred to the contemplated construction of a mill at Saharanpur which would be really fed by grass. That being so, it is quite clear that the imposition of the duty may help not only the bamboo but also the grass industry and every other mill which manufactures paper in India. On page 82 Honourable Members will find that the evidence leads us to think that the manufacture of paper out of *sabai* grass would not be possible in any other region in India under a system of absolute free trade. Further, Sir, the only point for consideration in regard to this amendment is whether it is absolutely correct that the imposition of protective duty would only help the bamboo paper and paper pulp industry. It is quite possible that some of this protection would also reach mills which are now using *sabai* grass and in that respect I think there can be no quarrel at all between the proposal of this amendment and that of the Honourable Sir Charles Innes, for after all what matters is the protective duty, and that duty helps not only mills which now manufacture bamboo paper but also those that use *sabai* grass. Otherwise, it would lead to difficulties. Honourable Members will also find that in the Title to the Bill my Honourable friend uses exactly the same words

“to provide for the fostering and development of the bamboo paper industry in British India”

Therefore, Sir, this protection would be a help not only to mills which now use paper pulp but also *sabai* grass and it seems to me that he should bring the Resolution into conformity with the actual facts. (Mr Devala Prasad Sinha “What will be the cost?”)

The Honourable Sir Charles Innes. Sir, I must confess that I cannot understand why we have spent the best part of an hour in discussing this particular point. The terms of my Resolution follow exactly the recommendation of the Tariff Board. The Tariff Board record a definite finding that *sabai* grass has not made out its claim for protection. The existing mills do not satisfy the conditions laid down by the Fiscal Commission. Their needs are irrelevant in considering the claim for protection. As I said in my opening speech, they make a possible reservation in favour of the Saharanpur Mill. That mill has not yet been started. It is merely a project at present. The Tariff Board consider that conditions there are favourable and that that mill may make good. I sincerely hope—we all hope—that it will make good. But at present it is merely a contingency. The Tariff Board, therefore, say that the claim to protection depends entirely upon the possibility of manufacturing paper from bamboo. Now Sir, that is the reason why I propose to entitle my Bill, if the House will pass this Resolution, a Bill for the protection of the bamboo paper industry. But as Mr Ramachandiah Rao has pointed out, and as Mr Kelkar has pointed out, the form of the protection we give to this bamboo paper industry is by increasing the import duties, and all mills, whether they are making paper from grass or whether they are making it from bamboo, get the benefit of these increased duties. Sir, I cannot see why in these circumstances the House should ask me to

alter either my Resolution or the terms of my Bill. My Resolution is strictly in accordance with the recommendation of the Tariff Board, and if I were to accept Mr Kelkar's amendment, I should be saying that we in this House and the Government do not accept the definite finding of the Tariff Board regarding grass mills. I think, Sir, the House ought not to ask me to do that. As I pointed out, it is not a matter of practical importance. We treat all mills alike and they all get the benefit of the protection. I therefore must oppose this amendment, and I hope the House will support me.

**Mr President** The question I have to put is

“ That in the Resolution after the words ‘ the bamboo ’ the words ‘ and grass ’ be inserted ”

The motion was negatived by 49 votes against 40

**Mr N M Dumasia** (Bombay City Non-Muhammadan Urban) Sir, in the first place, I beg to tender my thanks to you for allowing me to move the amendment, although notice was sent at a late hour yesterday afternoon. In the second place, I want to make it quite clear to Honourable Members of this House that I am connected with a newspaper and a printing press in India, which has been affected by the kind affection which under the able guidance of the Honourable Sir Charles Innes the Government of India are showing towards languishing indigenous industries. I hope that next week when the subject of the cotton excise duty comes up for discussion, he will manifest the same keen interest for that industry. (Hear, hear.) Sir, as I have said, I have made it quite clear that I am connected with a leading newspaper in India which is affected by the operation of this Resolution, yet, Sir, I base my amendment on the principle which has been recommended by the Tariff Board and which has been accepted by the Government of India that the newspapers are to be exempted from this increased tariff. Sir, the sole reason which prompted me to send notice for committing the Bill to Select Committee was a representation which I received from the lithographers of Bombay. In a covering letter forwarding that representation the lithographers say

“ Government is rushing through the recommendations of the Tariff Board on paper and giving no opportunity to the Assembly and the public to express opinion. These protective measures generally throw hardship on the consumers, and the proposed protective duties will mean a tax on education and knowledge. If books printed in foreign countries are permitted to enter this country free of duty on principle that a tax of that nature would mean taxing education and knowledge, it is really difficult to understand the purpose of the proposed high duties on paper which would make paper and printed books dear for every school boy ”

But, Sir as my friend Mr Devaki Prasad Sinha pointed out, under the reforms we are getting new boons from the Government of India and one of them is the proposal that illustrated newspapers and periodicals which use a particular kind of paper must pay extra duties as Indian mills cannot even with this protection compete in price with the imported article. A 40 per cent tax on paper used for the distribution of news and the spread of knowledge—and on an illustrated weekly which paper has a distinct educative value is a thing unheard of and unequalled in any part of the world. Sir the chief reason for this amendment is that super-calendered paper on reels is solely used for the purpose of newspaper production. As I have pointed out, the Bill already exempts newspapers from the proposed increased duty, so it is only ~~unreasonable~~

to include paper used in the production of illustrated papers in the

Mr Devaki Prasad Sinha What is the amendment?  
exemption

Mr N M Dumasia My amendment is that a certain kind of paper used in the production of illustrated papers should be exempted from the increased tariff, as it will amount to a tax on education and knowledge. I will read my amendment, Sir. It runs

“ That for the words ‘ poster and stereo ’ the words ‘ poster and stereo and super-calendered paper imported in reels ’ be substituted ”

That is my amendment, Sir. It has not been circulated to Honourable Members as it was sent late last evening. The representatives of the Indian paper mills who are now in Simla have no objection to my amendment as the particular paper does not compete with the industry at all. The non-acceptance of my amendment will not benefit them in the slightest degree, this being a paper which they cannot make either in requisite quantity or of the proper quality.

Now, Sir, the only excuse for putting this tariff on the kind of paper which I have mentioned is the recommendation in the Tariff Board's report, paragraph 152, page 98. They say

“ It (this kind of paper) is in fact made by one mill ”

and they point out that it is not from bamboo and this Resolution seeks to protect the bamboo paper industry. I, therefore, fail to see why it should be recommended for increased tariff. The Tariff Board report then proceeds to state

“ But the important point is that, if it remained subject to the present rate of duty, it would be more largely used instead of other papers and would thus affect the sale of Indian paper ”

That is absurd and has no relation to realities. I have great respect for the opinion of the Tariff Board, but I am afraid they are labouring under a misapprehension. There is no ground for the fear that this kind of paper will be largely used if higher duty is not imposed upon it. There is no reason for such an unwarranted assumption. This paper costs £30 per ton, and no printer would cut his nose to spite his face and use this costly paper. The indirect effect, if the increased duty is placed upon this paper, will be that it will give such a death blow to the *Times of India*, *Illustrated Weekly* that the proprietors will have to dispense with this costly paper and use that kind of cheap paper on which no duty is levied. So, Sir, the object with which this item is included in the new tariff will be frustrated. Sir, there are two ways of importing super-calendered papers, one is imported in sheets and another is imported in reels, and what is imported in reels is solely used for the production of newspapers. A Member sitting on the Treasury Bench asked me, where is the guarantee that the papers imported in reels will not be cut and made into sheets? My reply to it is this. No printing press in India has got a machine for that purpose. It is a very intricate and costly machine and only the paper manufacturing mills have got such machines. We pay full duty on the papers that are imported in sheets. Sir, if Government have any doubt on this subject they can remove that doubt by emphatically stating that such paper as is used only in the production of newspapers will be exempted from the increased duty. That will obviate the difficulty which may be raised

against it. So far as I can see, Sir, there is no other difficulty in the way of excluding this kind of paper from the high rate of tariff. I can understand Government's anxiety to protect this industry and give effect to the recommendations of the Tariff Board at an early date and therefore I am prepared not to press my amendment to refer the Bill to the Select Committee. But, Sir, in their anxiety to save one trade Government should not kill another industry. I entreat the Government not to injure another important trade. Printing is also an industry and a trade. It disseminates knowledge and education and this Government will be the first and only one to tax knowledge and education if it increases tariff on that kind of paper which is solely used for the production of a newspaper. I strongly appeal to the Honourable the Commerce Member to accept this amendment. After all, this tariff is not imposed for revenue purposes. It is only laid, as my Honourable friend Sir Willoughby Carey said, to enable the trade to hold its own against competition and to maintain the trade and regain the lost market. In fact, in this kind of paper there was no market and no competition, and I am sure the representatives of the trade will agree with me that this paper does not compete with them and I hope they will not object to my amendment. I once more appeal to the Honourable the Commerce Member and to all the Members on the Treasury Bench with all the earnestness at my command to consider this case very sympathetically. Do what you like, but do not injure another industry and do not put a tax on knowledge and education.

**The Honourable Sir Charles Innes** May I put a question to the Honourable Member? I understand that his reference is to super-calendered paper imported in reels, indeed he referred only to super-calendered paper.

**Mr N M Dumasia** Yes, Sir. I plead for super-calendered paper imported in reels.

**The Honourable Sir Charles Innes** May I ask him to word his amendment "poster, stereo and super-calendered paper imported in reels"?

**Mr N M. Dumasia** I am quite willing to do that.

**The Honourable Sir Charles Innes** I do not wish to mislead the Honourable Member. What I want is to have the amendment in a correct form if it is carried by the House.

**Mr B Das** (Orissa Division Non-Muhammadan) Sir, I rise to support the amendment moved by my friend Mr Dumasia. Sir, none of us can dare to oppose the Press in India or elsewhere. None of us dare oppose this amendment and specially those of us that read the *Times of India Weekly Illustrated* on Sundays over our morning cup of tea. Sir, if it were not but for this paper, we may have missed the picture of our Finance Member worrying over the gold exchange problem or the picture of the Honourable the Commerce Member, who is so much worried over the protection duties. The Tariff Board in the paragraph just now quoted by my friend Mr Dumasia have found it possible to exclude litho paper but they had some suspicion as to now they are to separate the kind of litho paper that is used for newsprinting. One

land is used for the printing presses. Mr Dumasia has explained to us that the paper that comes in reels is especially used for the newspaper printing. That is sufficient explanation and I hope the Honourable the Commerce Member will accept Mr Dumasia's view.

Sir, before I sit down I owe an explanation to this House for the remarks that my friend on the right Mr Devaki Prasad Sinha made about my being a bogus capitalist. Sir, I am not a capitalist. A bogus capitalist, to my mind, is one who promotes bogus companies and pockets the money. Sir, I am not a capitalist. I am a consulting engineer and industrial adviser in my private profession and I call it a link between the capitalist and the labour. If my friend, who occasionally poses as the representative of labour, or the representative of the agricultural classes or the representative of the socialists as it suits the occasion, instead of himself being a labourite or a socialist or a worker actually, forgets that he is himself a lawyer and yet talks of agriculturists and their non-representation and alleged grievances, I have a better right to speak on questions concerning capital and labour than a lawyer—who lives mostly on the agriculturist classes. Sir, lawyers, in order to continue their career, always realise money from the agricultural classes. Sir, I have given the explanation to the House to shew that I am neither a capitalist nor a bogus capitalist, but there are others who are bogus socialists or bogus communists.

**Mr. President** Order, order. Will the Honourable Member restrict himself to the amendment before the House?

**Mr. B Das** Sir, I have nothing more to say. I heartily support the amendment moved by my friend Mr Dumasia and I commend it to the Honourable the Commerce Member.

**Mr H G Cocke** (Bombay European) Sir, I rise also to support this amendment. I think it is really a very simple business proposition. One of the objects of the Tariff Board was not to penalise newspapers but in the case of a certain newspaper they are going to do so, unless this amendment is carried. It is stated in the Tariff Board Report that this particular kind of paper is made in India. Actually that is true, but for practical purposes it is not. The quality, I understand, of the paper manufactured in India is not sufficiently good to enable this particular newspaper to use it. And, therefore, for practical purposes this paper is not made in India. It is further stated in the Tariff Board report that it would be more largely used if the duty is not put on. The words are

“ it would be more largely used instead of other papers and would thus affect the sale of Indian paper. For this reason it must be brought within the protection scheme ”

I am advised, Sir, that that is an incorrect statement in that the price of this paper is very much too high to enable it to be brought into general use. I should like to point out that the newspaper we are considering is one with which Honourable Members on the Front Bench opposite may not be entirely unfamiliar on Sunday afternoons, especially since cross-word puzzles came into vogue. If they were to transfer their activities to Bombay, they would find inside that paper new sheets containing the latest telegrams up to Saturday night. It is not merely a journal or a magazine in the local area, but it is a newspaper with all the latest news up to Saturday night and is bought in Bombay as a news-

paper It seems to me, therefore, that this particular kind of paper should be excluded and I understand that the trade have no objection whatever to this course I, therefore, hope that the Honourable Member for Commerce will accept this amendment

**The Honourable Sir Charles Innes** Sir, I am rather in a difficulty with this amendment I am not referring to the fact that I have lost my notes on this rather technical matter, but I am referring to what I consider to be rather a more serious difficulty I am not insensible to the appeal which has been made to me by my Honourable friend Mr Dumasia and which has been supported by Mr Cocke I must confess that I do not agree that this particular tax is a tax on knowledge and education I am prepared to admit that it is a tax on the paper referred to by Mr Bhubananauda Das and I should like to say that I personally have no desire to tax unfairly any paper whether it belongs to the *Times of India* or to any other newspaper in India But my first difficulty is this The House has got to realise that in any protective scheme particular interests are bound to be affected This particular interest was considered carefully by the Tariff Board I happen to know because I have seen the evidence These points were put up particularly to the Tariff Board The Tariff Board considered them and definitely turned down the application for exemption in favour of this super-calendered paper Now, that is the first point I have to make Secondly, I am not quite sure what the exact effect of this will be In fact, the Commerce Department of the Government of India have not had really a proper opportunity of considering the matter The point was brought to our notice three weeks ago We asked at once that it might be put into writing It was put into writing only three days ago and there the very important addition was made "and super-calendered paper in reels" We were told that if we make the entry in that form, then the fears of the Tariff Board as expressed in paragraph 152 of their Report would not be valid But we have got to remember that, if you exclude the super-calendered paper in reels from this protective duty, you reduce its price by Rs 56 a ton And we have not been able to ascertain whether reducing the price by that amount—Rs 56 a ton—would not lead people to import this paper in reels and then cut it up into sheets in this country Now that is our main difficulty in this connection Mr Dumasia has told us that there is no paper cutting machine in the country which could be used for that purpose I am quite prepared to admit that this is the first time this essential fact has been brought to my notice Consequently, as I say, I am in a difficulty in this matter But my solution of it is this If the House desires to accept this amendment, I personally shall not object I leave it entirely to the decision of the House

**Mr President** The question I have to put is

"That after the word 'stereo' the words 'and super calendered paper imported in reels' be inserted."

The motion was adopted

**Mr President** I do not know, in view of the decision on the amendment of Mr Rama Aiyanger, whether Mr Acharya wants to move his amendment

**Mr M. K. Acharya** I am in the hands of the Chair, Sir

**Mr President** It is entirely for the Honourable Member to move it or not



**Mr M. K. Acharya :** I do not move it, Sir

**Mr A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, with your permission I am moving the amendment\* which stands in my name

I do not propose to trouble the Assembly with reading it, but I desire straight away to point out that my amendment is divisible into two parts—the first part of it takes objection to the manner in which the recommendations of the Tariff Board in regard to the grant of loans or subsidies have been turned down by the Government without giving us an opportunity to have our say, the second part of it is an amendment which is much milder in form than my friend Mr Rama Aiyangar's and which I cannot see how any reasonable person on the side of the Government can take any objection to Sir, so far as that amendment is concerned, my case is already fully explained by the observations of my friends who preceded me and criticised the decision of the Government not to grant subsidies or loans I find, Sir, that this is not merely a tentative decision but that it has been deliberately adopted and that it has been put into the Statement of Objects and Reasons of the Tariff Bill which is to follow this Resolution There it has been stated, Sir, that the policy of granting subsidies or loans is open to grave objection And now, when we come to the very lucid exposition, if I may say so, of the Honourable Sir Charles Innes of the conclusions of the Government, he pointed out to us that the Government's objection to the policy recommended by the Tariff Board in regard to the granting of loans or of guarantees or subsidies was three-fold He said that the recommendation of the Tariff Board in this behalf was made in respect of a private company of three people and he said, in the next place, that they have a private patent and in fact the Government's assistance would be helping a monopolist to increase his profits, and then he said that, if this policy of subsidies is accepted, then they must be applicable to all and that therefore they cannot resist the flood of applications for loans and subsidies that might be brought forward Sir, that is all an imaginary picture entirely, because so far as the Tariff Board are concerned I say, Sir, that their recommendation to impose a protection duty would be absolutely nugatory if it was not coupled with the other recommendation, which they made as part and parcel of the same transaction, namely, that the whole of this import duty is intended to develop—not the grass industry upon which, wrongly as I think but rightly as the Government have thought, undue stress was laid, and which was assumed to have an established future before it—but with a view to develop the bamboo pulp industry and to make it exist in this country, as that is the industry that has a great future before it Therefore, Sir, the primary object of this protective duty is—and that is the object upon which my friend Sir

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\* " That at the end of the Resolution the following be added

' But this Assembly conveys to the Governor General in Council its regret that in regard to the recommendations of the Tariff Board for the grant of loans or subsidies to firms with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process, the Government should have come to conclusions without placing them before this House and taking its opinions thereon ,

And this Assembly further recommends that these recommendations be accepted in principle and that further investigations be made in accordance with the recommendations of the Tariff Board as to the most effective manner in which assistance may be given to all the companies or firms that are prepared to explore these possibilities on a commercial scale ' "

Charles Innes laid the greatest stress—that the bamboo pulp industry and the bamboo paper mill industry should grow in this country, and though the present Bill directly benefits the bulk of the grass mill industry, its intent and purpose is to protect and to start and maintain the bamboo pulp industry. If that is so, Sir, they must take all the steps that are necessary to bring this bamboo pulp industry into existence, to see that it is maintained properly and to see that it is an accomplished fact in this country. What does the Tariff Board say in this matter?

“For these reasons,”—they say,—“we consider that the assistance needed should be given primarily.”

—and I stress the word “primarily”—

“by means of the advance or guaranteeing of capital to firms best equipped to carry out the work which has to be done.”

That is the primary recommendation which the Tariff Board make. The Government give the go by, without giving us an opportunity to consider it, to that recommendation. (*The Honourable Sir Basil Blackett* “No”) They say, so far as they are concerned, they will only levy a protective duty because it does not involve any expenditure out of their present funds but on the other hand it involves payment into their pockets of the tax-payers’ money. It goes to fill their coffers. I think when that money has been got in, the Government will sit tight on it. That is the first offence.

Then, Sir, I am not one of those grass protectionists, and I think I am not like my friend Mr. Devaki Prasad Sinha a kind of Rip Van Winkle waking up from the days of Richard Cobden and Bright in the days of Joseph Chamberlain and Robert Baldwin. I am one of those who know the dangers and difficulties of adopting a policy of protection and therefore Sir I do not say that, unless a proper case is made out, you should go in for indiscriminate protection. But what is the position in regard to this help by means of capital which I think is the form of protection here contemplated? So far as concerns the Tariff Board, they have very definitely said this:

“We have laid stress on the fact that fresh capital must be secured by the industry if the possibilities of bamboo are to be fully investigated. But the question at once arises whether, if the assistance given by Government is limited to a period of five years with no guarantee of its continuation thereafter, there is any chance that capital could be raised in the open market. It seems to us extremely improbable that it could.”

Therefore, Sir, we have the authority of the Tariff Board that by the mere fact of a protective duty being imposed, it is not possible to attract capital to this industry. And they say:

“Whether protection be given in the form of Customs duties or of bounties the danger that they might be withdrawn at the end of five years would be sufficient to deter the investor from incurring a very serious risk.”

Therefore, they say:

“For these reasons we consider that the assistance needed should be given primarily by means of the advance or guarantee of capital.”

That is the position that they take, and the Government have set aside and lopped off one side of the recommendations and have tried to give effect to the other side.

In regard to the specific objections of my Honourable friend, <sup>2</sup> Charles Innes, I say, Sir, I do not want that the Government.

mediately pay away without investigation to any particular firm. I will be the last man to go and defend any policy by which this is treated as a means of patronage in the hands of the Government. My proposal is not that. It is this. Why have you definitely stated that you are not going to have anything to do with the policy of giving our loans or bounties? Why have you said that you will not make further investigation into this matter? After all, the whole object of this paper industry protection is to explore the possibilities of establishing a big industry in this country, and in order to explore it, the bamboo pulp mills should be helped, and they could not be helped without capital coming in. How can you escape from that position by saying, "No, we will simply impose this duty and try and look on. If necessary, we will extend it to seven years." As Mr K Rama Aiyangar pointed out, you can go on doing it for 20 years, but unless you can attract capital to that industry, this protection will only serve to swell your coffers and you would not protect the industry. Therefore, I say, let us examine this matter further. I am not wanting Government to say that they will immediately pay away Rs 10 lakhs to this company and another Rs 10 lakhs to that company in my province. What I say is, examine this matter and then come to a decision. Impose proper conditions to prevent monopolists exploiting and to see that Government money is safe. After all, this is much fairer than taxing the people and taking the money merely into the coffers of the Government. Therefore, the proposal I make is eminently moderate. I merely want the Government to reconsider the hasty decision they have arrived at. My Honourable friend Sir Charles Innes apologised to the House for the short notice he gave. I think it must have been an extremely shorter notice that the Government had when they arrived at such definite conclusions, absolute conclusions, so soon. I ask the Government, therefore, to reconsider this matter and to accept the whole of the recommendations, and not merely a part of them, and to say that they will examine the applications for help in the way of advance of capital and that they will then come to their decisions.

There is one more serious position to which we have been driven by the attitude of the Government in this matter. The House will be aware—many Members in the provinces will be aware—that in the Provinces, Industries is a transferred subject, and by virtue of it, Ministers in charge of the Industries Department have become able to help industries—in my province, and I believe in the United Provinces and other provinces,—by granting loans and subsidies for the resuscitation of old or for the establishment of new industries. The declaration of the Government of India that the policy of giving subsidies or loans is open to grave objection merely means a kind of mandate to the Provincial Governments, a kind of censure as to their past policy upon Provincial Governments to the effect

The Honourable Sir Charles Innes Will the Honourable Member refer me to the place where I have said that?

Mr A Rangaswami Iyengar It is in the Statement of Objects and Reasons Sir, over your signature

The Honourable Sir Basil Blackett Read the whole of it

The Honourable Sir Charles Innes Read it

**Mr A. Rangaswami Iyengar .**

" The Government have considered these recommendations and accept the proposal to impose a protective duty on those kinds of printing and writing paper specified in the Schedule to the Bill. They, however, consider that, as the grant of loans or subsidies in the manner suggested by the Tariff Board is open to grave objections \* \* "

I understand Sir Charles Innes's point. He says that he has qualified the sentence by the phrase " in the manner suggested " . Shall I take it from the Honourable Sir Charles Innes that if subsidies or loans are proposed " in any other manner ", Government are prepared to consider the matter and to give these loans and guarantees which are wanted ? If that is the position, let us know it. Otherwise, his declared policy is that Government will not embark upon a policy of loans. I do not want that they should escape by a quibble on this matter. In the provinces—at least in some of them—the Ministers are committed to a policy of protecting Indian industries by means of loans and subsidies, and the Legislature in Madras has passed the State Aid to Industries Act for this purpose. That Act has received the assent of the Government of India, and after all this has been done, the Government of India turn round to day and say that that policy is open to grave objection.

**Mr L. Graham .** Not the assent of the Government of India.

**Mr A. Rangaswami Iyengar .** Yes, I understand you, but still you have sanctioned that Act. Moreover, we, the Central Legislature, have guaranteed any amount of subsidies and paid bounties under the Steel Protection Act. That seems not open to grave objection. Sir, the position I was driving at was this. In my own province, a particular paper mill whose possibilities of success have been demonstrated and accepted in the recommendations of the Tariff Board themselves, has already been given Rs 4 lakhs by the Government and they have borrowed Rs 2 lakhs elsewhere. They require some more money urgently to start work. The Tariff Board say that not merely the sulphite process of the Nairati mills but also the soda process of this Rajahmundry mill as to its possibilities on a commercial scale, ought to be investigated and fully gone into. They say that after the Government experts examine the further data and requirements, they should immediately advance Rs 10 lakhs to this company, not because it is the Carnatic Paper Mills Co., but because it is in the interests of the country. There can be no doubt that the establishment of paper mills for making paper out of bamboo by the soda process ought to be an accomplished fact in this country. Therefore, Sir, even if the Madras Government was willing to advance further money under the State Aid to Industries Act, they will necessarily hesitate in view of this declaration of the Government of India and their policy will be materially influenced by this action on the part of the Government of India. I have put my amendment, as I said before, very mildly. I say, " please reconsider this matter, please go into this matter and again come to us " . I merely ask you to accept the principle that the industries can be protected also by this means. You accept that principle, and then you go and investigate whether particular cases could come under it. What is the difficulty in accepting it ? I say, again, I do not want that Government should pay away the money at once. I want the matter to be investigated. That is the recommendation. That is the basis of the whole of this report, and I call upon this House to accept my amendment without the slightest dissentient voice and to tell the Government that they have not done fairly by us in having concluded this matter without consulting us, that they have not treated fairly the Provincial Governments who have embarked

a policy contrary to the policy that they have now hastily chosen to declare. It is our duty to ask the Government to reconsider this matter. Sir, I move my amendment.

**The Honourable Sir Alexander Muddiman** : On a point of order, Sir, before you put the amendment, which has been moved, to the House, I would ask you to rule out the first paragraph on the ground that it is not a recommendation.

**Mr A Rangaswami Iyengar** : I will alter the draft.

**The Honourable Sir Alexander Muddiman** : The first paragraph of the amendment which is on the paper is out of order as not being a recommendation. I take the point merely in the interests of the House. It does not affect the argument.

**Mr President** : I think the Honourable Member himself will realise that the first part of his amendment is not a recommendation to the Governor General in Council and therefore is clearly out of order. He will therefore modify the second part to make it intelligible.

**Mr A Rangaswami Iyengar** : Sir, the reason why I put in the first clause of my amendment is

**Mr President** : The Honourable Member need not explain the reasons why he put in the first clause.

**Mr A Rangaswami Iyengar** : I will move the amendment thus

“ And this Assembly further recommends that the recommendations of the Tariff Board for the grant of loans or subsidies to firms with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process be reconsidered and accepted in principle and that further investigations be made in accordance with the recommendations of the Tariff Board as to the most effective manner in which assistance may be given to all the companies or firms that are prepared to explore these possibilities on a commercial scale ”

**The Honourable Sir Charles Innes** : I think I must object. Sir, The Honourable Member has entirely altered the whole character of his amendment. The amendment I have got now to deal with runs as follows

“ This Assembly further recommends that these recommendations be accepted in principle ”

I submit that it is not fair to me that without giving me any notice at all the Honourable Member should alter the character of the amendment.

**Mr President** : The Honourable Member (Sir Charles Innes) had sufficient notice because “ these recommendations ” means the recommendations mentioned in the above paragraph.

**The Honourable Sir Charles Innes** : As I understand the Honourable Member, he is not moving that portion now. He is moving the second part of his amendment on the paper which is an entirely different proposition.

**Mr President** : I understand the Honourable Member from Madras moves

“ That this Assembly further recommends that the recommendations of the Tariff Board for the grant of loans or subsidies to firms with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process be accepted in principle and that further investigations ”

of which the Honourable Sir Charles Innes had sufficient notice.

**The Honourable Sir Basil Blackett** (Finance Member) Sir, it is a little difficult to deal with the amendment in the form in which it has now been put after being prepared to deal with it in a somewhat different form. But I would submit that the amendment as it stands is in substance exactly the same amendment as that of Mr Rama Aiyangar which has already been negatived, because it proposes that we should accept in principle the recommendations of the Tariff Board for the grant of loans or subsidies to firms with a view to fully, etc, etc. That is exactly what the Tariff Board recommended, that a loan of Rs 10 lakhs should be made to a particular firm for the purpose of continuing its monopoly process in regard to bamboo pulp. The House has already decided that that amendment is not desirable. I am not clear what difference there is between that amendment and the amendment now moved. It is true that Mr Rangaswami Iyengar has raised very broad questions on this narrow basis. He is, I would like to assure him, entirely mistaken in believing that the Government ever have conveyed or have intended to convey any kind of general decision in regard to the grant of loans or subsidies in the wording of the Statement of Objects and Reasons which has been quoted. What is said there is this: Government consider that as the grant of loans or subsidies in the manner suggested by the Tariff Board, that is, loans or subsidies to this particular firm which has a monopoly, which has, as a matter of fact, already put something like half a crore of rupees as capital into the working of this monopoly and which may require perhaps another ten lakhs to continue that experiment—Government consider that a loan in that manner is undesirable. Nothing whatever is said there or anywhere else in regard to the action of the Madras Government and other Governments in the matter of loans and subsidies to industries. This is not a question of bounty as I have already interjected, which is quite a different matter. It does not in any way suggest that the Government object to bounties being given in certain circumstances as they have been given with help of the Government vote in the matter of the steel industry. There is no suggestion here whatever of Government intervention in the action of the Madras Government in the matter of loans or subsidies to particular firms and industries. The promotion of industries is a transferred subject and it is entirely within the discretion of the Madras Government what action it takes in regard to that particular question. I do not propose to-day to discuss the broad principle.

**Sardar V N Mutalik** Is the House to understand that it is outside the scope of the Government of India to give loans to any industries ?

**The Honourable Sir Basil Blackett** I was coming to that point. One of the objections to the grant of a loan or subsidy in the manner suggested is that it would involve the transfer of the paper industry from being a transferred subject into a central subject. (*An Honourable Member* "You can do it") It can be done but it is one of the grounds on which the Government of India came to the conclusion that the particular proposal of the Tariff Board in this particular connection was an undesirable one for the Government to follow up. I would really put it to the Honourable Member that it is undesirable that we should suddenly raise a very big question of principle which is not germane. If the House desires it to be done, I would suggest that it must be done with due preparation and with thought. The Government of India have not in this

connection made any attempt to deal with the general question. They have decided to recommend to this House that the particular method of making a loan to this particular firm be not pursued on this particular occasion. I am sure we can leave it at that. There is no suggestion of a censure on a transferred department of the Madras Government for its action. The whole question is entirely outside, irrelevant, I put it, to this matter here under discussion. If we are to raise the big question of principle let us do so in a manner and at a time in which the House may come prepared to deal with the general question. There is a great deal to be said, as the House is aware, on both sides of that very big question. It is very germane to the question of encouragement of Indian capital to take part in Indian enterprise. I do not wish at this moment to pursue the general subject at all because I put it to the House that we can here confine ourselves entirely to the particular question whether a grant of a loan to this particular company working bamboo pulp is desirable. The House has already decided that it is not, because it has negatived Mr Rama Aiyangar's motion.

**Mr K Rama Aiyangar** On the statement of the Government on the matter

**The Honourable Sir Basil Blackett** It does not matter on whose statement it was made. Mr Devaki Prasad Sinha and Mr Rama Aiyangar spoke and it was negatived. I submit that the House need not raise the general question here. If the general question is raised we shall want very much more time to deal with it than we can possibly have to-day and Government cannot quite clearly accept this amendment without a complete alteration being made in the whole situation. (*A Voice* "We leave it to you to consider.") On the contrary, we are asked to accept in principle the recommendations. Those recommendations are that a loan of Rs 10 lakhs be made to a particular company and the question of further loans to any other company be taken up later. We reject them on this occasion. We object to the grant of a loan to a monopolist firm which does not require it. The suggestion that a small group of capitalists, holding a monopolist process, who have already put something like Rs 50 lakhs into it, will not go on with it if they find it desirable, when they have the additional inducement of a very large measure of protection for 7 years, is surely one which on the face of it does not carry conviction. I therefore put it to the House that we should not raise the general question of principle at this stage, but that we should confine ourselves to the question whether or not it is desirable to grant this loan to this particular company. The Government have already said that there is such grave objection to that that they are unable to accept the recommendation in principle, and if this amendment is passed we are really in exactly the same position as if Mr Rama Aiyangar's amendment had been passed. The matter cannot be left in the vague position in which it would then be. The Government would have undoubtedly to reconsider the whole matter and the Bill cannot be proceeded with. I do not want to take up the time of the House more but I put it to the Honourable Member once again that if he reads his amendment carefully it is that we should accept in principle the grant of a loan in the manner suggested by the Tariff Board. We have already said

**Diwan Bahadur T Rangachariar** Supposing that clause is omitted and the amendment reads "that further investigations be made", and

**The Honourable Sir Basil Blackett** We have just had an investigation. The Government are unable to commit themselves to any proposal.

**Mr A Rangaswami Iyengar** The Tariff Board themselves ask for further investigation. I am only asking that these investigations be made and the Government do not commit themselves in any way.

**The Honourable Sir Basil Blackett** There is no statement that the investigations will not be pursued. I am dealing after all with this point. The whole of this amendment depends on the words "that these recommendations be accepted in principle." I cannot deal with five or six different amendments as the course of the debate changes. I am dealing with the amendment now before the House and I put it to the House that the wording of that amendment does commit the Government and, if the House accepts the view that we should make a loan in the particular circumstances to this particular company, that is a recommendation which the Government regret that they are unable to accept.

**\*Mr M A Jinnah (Bombay City Muhammadan Urban)** This is a question upon which I cannot speak with any great authority. I make that confession on the floor of this House. But there is one aspect of this question upon which I think I can speak and I hope to be able to convince the House as to my point. The Honourable Member who has just sat down very rightly said that this amendment if carried would commit the Government to give effect to the principles of the recommendations of the Tariff Board. Quite correct. And the Government have in bringing this Resolution before this House deliberately, advisedly, departed from the principles of the recommendations of the Tariff Board. Now, Sir, what is the Tariff Board, as a mere lawyer understands it? It is a body of expert men selected by the Government for the purpose of advising the Government what industries there are to which protection ought to be given and in what manner. That body of expert men have after careful investigation made certain definite recommendations. The Government in their superior wisdom, and I am not disputing the superior wisdom of the Government and I am not suggesting that the Government were absolutely bound to carry out every letter or even the principle of their recommendations were entitled to examine those recommendations with all the machinery and with all the assistance that they can call to their command. They did so and they came to certain conclusions and the result of those conclusions is the little Resolution of my Honourable friend the Commerce Member and this little Bill which is placed before this House. Now, Sir, this decision of the Government, I believe was announced a week ago, and to-day what is this House, the Parliament of India (*An Honourable Member* "Mock Parliament") asked to do? It has been asked to listen to the Honourable the Commerce Member's reasons and his grounds for departing from those recommendations. Now, Sir, is this the position of this Assembly? What is our position in this House? Am I in a position now to sit here within a few hours of notice to examine what already has been very carefully examined from the point of view of the Government and say that you are right? Now, Sir, the only reason which the Honourable Com-



Member has given to this House for not giving effect to the recommendations of the Tariff Board with regard to subsidies and loans is that instead of imposing a customs duty for five years we are going to impose a customs duty for seven years and, according to the Government, it is a better proposal, it is more beneficial and it is more likely to achieve the object that we have at heart, namely, giving effective protection to this industry. That is the proposition which is placed before us. Now, if I or any Honourable Member of this House or any group of Members of this House had examined this point in connection with the recommendations of the Tariff Board and if we had made up our mind equally as the Government have, and if that proposal had been brought here, would the Government have accepted it? No. They would have said, as the Honourable the Finance Member says, it requires thought and due consideration. I know that we are here held by a silken string and that silken string is the convention. And what is the convention? If we do not agree with the Government and if this House says "we reject your proposal", what happens to us? The Bill will be withdrawn and we shall be relegated to that great lord and master of us all who is sitting at Whitehall, the Secretary of State for India. I am told that he does not come in here. I have got to learn that he does not come in here. I ask my Honourable friend the Commerce Member a question upon the statement that I have made before this House. Is this going to be our position in this House for ever so long as the Government of India Act of 1919 is going to last? The Commerce Member will probably tell me that after all the Government cannot take individual Members into their confidence, nor can they have any discussions with individual members of this House, and that after all this is a measure which has got to be kept secret. I concede that point, but, Sir, anomalous as this situation is under which we are working, I ask the Commerce Member, has he got any proposal to make by which at least sufficient notice should be given to this House, a procedure by which at least some Members of the House may be appraised of the position of the Government after their decision is taken, and that we might sit in some sort of a Committee? We have got many Committees, and I think we might establish one more Committee for the purpose of discussing the decision of the Government, so that we come to some definite conclusion so far as that particular Committee is concerned. I ask the Commerce Member and the Government of India carefully to consider whether with regard to this policy and programme which we are pursuing and giving effect to, namely, protection to certain industries, the Government must at least place their proposals before this House in due time and give them opportunities for the purpose of discussing these proposals. Sir, this is the point which I want to press upon the House. It is exactly the same—if I may divert for a moment—it is exactly the same with regard to the next Resolution about steel. There again the Government have departed from the recommendations of the Tariff Board. The Honourable the Commerce Member will probably, when he makes his speech, come out with different data. It may be that he has better data than the Tariff Board data, and we shall be asked here on the floor of this House to examine those data. How is that possible? I do appeal to the Government to try and find some procedure by which under this anomalous constitution you should give a fair opportunity to the

Members on this side to examine your proposals, and then there will be more consideration and there will be more reason than what the Honourable Finance Member thought there was

**Mr C B Chartres** (Associated Chambers of Commerce Nominated Non-Official) Sir, I am very surprised indeed to see the amendment moved by the Honourable Member. I presume that it is suggested with a view to helping the Carnatic mill

**Mr A Rangaswami Iyengar** No, Sir, absolutely not. I deny it

**Mr C B Chartres** It seems to me that the amendment is going to do the very reverse of helping that mill

**Mr A Rangaswami Iyengar** May I say, Sir, by way of explanation, that I have nothing to do with the Carnatic paper mill at all either as a shareholder or in any way

**Mr C B Chartres** I accept the explanation, Sir. But the amendment coming from Madras I was misled to that extent. But it seems to me that that mill would be very much better without the amendment, because the amendment recommends Government to give assistance to all companies or firms that are prepared to explore these possibilities on a commercial scale. Well, Sir, I think if this amendment were adopted by the House and accepted by the Government, we would have 20 or 30 firms in Calcutta jumping at the opportunity, probably 4 or 5 in Madras and an equal number in Bombay, and I think the amendment would do very much more harm than good to the existing paper mills. I would therefore recommend that the Honourable Member withdraw it and let us get on with the Bill which will really help the industry and do good to the existing mills

**The Honourable Sir Charles Innes** Sir, I should like first to refer to the remarks of my Honourable friend, Mr Jinnah, who I see is not in his place. Mr Jinnah, I think, pointed out what I myself feel to be a real difficulty. I mentioned it in my opening speech. I do feel that I have put the House in some difficulty because only a week ago I gave notice of his Resolution and here I am to-day asking the House to pass that Resolution and not only pass the Resolution but also to pass the Bill. But I do not agree with Mr Jinnah or Mr Rangaswami Iyengar that we should have consulted the House before we came to a decision. That is a position I do not accept. It is for the Executive Government to formulate its decision. It then brings its decision to this House and it is for this House to criticise that decision. (*Mr Rangaswami Iyengar* "And not alter it?") It is exactly what happens at Home. The only difference is that, if I were a Commerce Member in England, I would come to the House with a great party behind me. Here it is different. I am one of the small but happy band of pilgrims on these Benches, and in front of me are all the hosts of Midian, and all I can do is to try to persuade those hosts to agree to my proposals. But I think that Mr Jinnah's objection really was that we were giving such a little time. Well, that is really not my fault. Were this the Delhi Session, then this Bill might be referred to a Select Committee or it might be given longer consideration. But the trouble is that in this Session there are only a few days left and that is why I am asking the House to come to a decision to-day. Mr Jinnah suggested that some machinery might be devised by

which, after we had arrived at our decision, we should take some Members of the House into our confidence and explain the reasons for arriving at our decision. That machinery exists already in the departmental committee. (*An Honourable Member* "We have not heard anything about it.") I think that on another occasion, when we have more time we might certainly either discuss our decisions when we have arrived at them with the departmental committee or issue a Resolution giving our reasons in detail for the decision we have come to. At any rate, I can promise the Honourable Member that the Government will consider the suggestion that he has made.

I then come, Sir, to Mr Rangaswami Iyengar's amendment. I must say that, when I saw that amendment on the paper, I was much more afraid of it than I was afraid of Mr Rama Aiyangar's amendment. Mr Rama Aiyangar makes a direct frontal attack. Mr Rangaswami Iyengar is much too clever to do that. He attacks one on every side. I regard his amendment as a much more insidious attack on my Resolution. But, Sir, I would like to know what exactly Mr Rangaswami Iyengar is driving at. Is it that he objects to what he considers pronouncements against subsidies in the Statement of Objects and Reasons to my Bill? If that is his objection to my Resolution, then I think that my Honourable colleague, the Finance Member, has removed whatever objection he may have. The Honourable the Finance Member has explained the position and he has explained that the Government of India had no intention and have never had any intention of dictating to a Local Government in a matter of this kind. I say now that it is entirely open to the Government of Madras, if they so desire, to help the Carnatic paper mill at Rajahmundry either by a loan or in any way they like. But I cannot help feeling that Mr Rangaswami Iyengar had another end in view. I see before me a serried phalanx of Madras Brahmins. I have known these Madras Brahmins for many years, I know how they stick together and how strong their sense of local patriotism is. I cannot help feeling, though I know that Mr Rangaswami Iyengar would deny this, that what they really have in mind is that sooner or later they are going to get something out of the Government of India for this Rajahmundry mill. And, Sir, if that is so, are we going to end there? Already we have had Mr Das asking what we are going to do for Orissa. As I was going to lunch to-day I had another gentleman coming to me and saying confidentially "Sir Charles, cannot you give a loan to the Punjab mill?" And so it will go on. Once we accept this principle, it will not stop with the Rajahmundry mill. It will not stop with the India Paper Pulp Company, we shall have to give these loans to mills in all parts of India, and that, as I have explained, is one of my main objections to this amendment. Now Mr Rangaswami Iyengar's amendment does not—as Sir Basil Blackett has pointed out—differ in substance from the amendment moved by Mr Rama Aiyangar, but, as I have said, it is more insidious in form. Mr Acharya said "What are we asking you to do? We are simply asking you to accept this in principle. That is nothing at all." Sir, I remember two years ago I was representing India on the Imperial Economic Conference. I was having rather a difficult time because one or two subjects came up on which I had to play a lone hand. I had to play a lone hand against all the representatives of the Dominions all round. And I remember one of these Resolutions—I said that I could

not accept it for India. And I remember a prominent politician, whose name I will not divulge, leaning across the table and saying to me "Mr Innes, cannot you even accept it in principle?" And I said "No, I cannot." Now, if I had accepted the Resolution—it had something to do with the purchase of stores in India—if I had merely accepted that Resolution on behalf of India and told you that I had merely accepted it in principle and had no intention of keeping to it, what would you all have thought of it? As I have said, this amendment has really been turned down by the House when they refused to accept Mr Rama Aiyangar's amendment. I hope the House will take the same view now that they have taken before and that they will see that it will put me in great difficulty if this amendment is accepted.

**Mr President** The question I have to put is 'And this Assembly further recommends that the recommendations of the Tariff Board for the grant of loans or subsidies to firms or companies with a view to fully explore the possibilities of the manufacture of paper from bamboo by the sulphite, soda or other process be reconsidered and accepted in principle and that further investigations be made in accordance with the recommendations of the Tariff Board as to the most effective manner in which assistance may be given to all the companies or firms that are prepared to explore these possibilities on a commercial scale'.

The motion was negatived by 52 votes against 36

*Monday, 14th September 1925*

**Mr N M Joshi** By my amendment\* I propose, Sir, to raise a certain question of principle, and before I raise that question of principle I shall state very frankly my attitude towards the question of the protection of the paper industry. Sir, at the very outset I must state very clearly that like certain friends of mine, I am not a free trader. (Hear, hear) I do not believe that a country like India can accept the principle of free trade as long as the other countries in the world have not yet given up their spirit of fighting against other nations and as long as they have not given up the spirit of killing the trade of other countries. (Hear, hear) I therefore, Sir, I do not approve of certain methods which the Government of India have so far adopted for protecting these industries. But, Sir, I do not approve of the protection without doing any harm to the people in this country, the first thing which Government should do is to nationalize the industry which is in private hands. If the industry is in private hands and you protect the industry, then when it makes profit it will usurp the profits to itself, and when the industry makes losses, it will come to the Assembly and to the Government for

\* "That at the end of the Resolution the following be added  
'Provided—  
(1) That the company receiving the assistance shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of the company are satisfactory  
(2) That the Government of India are given such representation on the board of directors of every company receiving the assistance as the Government of India may consider adequate  
(3) That the company receiving the assistance shall undertake to pay an amount to the Government of India out of the balance which may remain of the profits after the distribution of 8 per cent dividend to the shareholders of the company, equal to the amount which the company may have received through the rise in prices of paper due to the imposition of the protective duty' "

protection. Therefore the country as a whole losses, while only the few people who have money invested in these industries gain. I think, Sir, it is a wrong method which the Government of India have adopted in protecting industries in the country. Now, if the Government of India have to protect an industry and if they will not accept the principle of nationalization, I hold that they should at least give protection to the industries by means of bounties and provide that the amount of bounties should be repaid to the State as soon as the industry was in a position to repay those bounties. If the Government of India accept this principle, the country as a whole will not lose, because if the bounty is paid at a time when the industry is in a bad condition, at the time when the industry makes profits the Government of India will be able to recoup the money which has been paid to the industry. That would have been the second best course. But, Sir, the Government of India do not accept even the second best course. They adopt a course which in my opinion is most dangerous to the interests of this country, especially to the interests of the poor tax-payer. Knowing very well that if I propose an amendment for nationalization or for bounties, Sir, I may be ruled out of order, I have by my amendment adopted a course which in my judgment is only the third best course, that is, to put in certain safeguards in order that the interests of the tax-payer should be protected and in order that the interests of the workers engaged in that industry should also be protected. But I will make it very clear that although I have suggested certain amendments here, I consider the Resolution, even amended as I suggest, will only be the third best course for protecting the industries of the country.

Sir, by my amendment I have suggested that if an industry receives protection by the means which Government now propose, namely, by increasing the customs duties, then the capitalists will get a certain benefit by means of the rise in prices. The tax-payer in India will have to pay the increased price of the material, and therefore the tax-payer should be repaid the money whenever the industry makes profits over a certain limit. I have proposed in my amendment that if an industry which receives protection is able to give a dividend of 8 per cent and has some balance left out of the profits, that balance should be paid to Government in order that the tax-payer should be given back the money which he has paid to the industry.

Sir, this is a very fair proposal. If an industry wants protection at a time when it is losing, certainly that industry must pay back the money to the Government whenever that industry is in a position to do so, otherwise, it is the capitalists and the industrialists who will receive money from the country whenever they are making losses on the ground that the industry is a national industry and it is necessary to maintain the industry in the interests of the nation, but when the industry makes profits, the industrialists will claim that it is a private industry and therefore they must be entitled to receive all the profits. Sir, this is not a very fair method of dealing with this question. The interests of the tax-payer must be protected and I have therefore made a suggestion in the third part of my amendment.

The second suggestion which I have made in my amendment is this that if an industry requires protection from Government and from the country as a whole, that industry must submit to the extent of the pro-

tection to control by the Government, otherwise the industry will not be properly managed and the country will suffer. When the country is asked to make a sacrifice for the sake of the industry, the country has a right to control the industry to the extent to which the country gives protection. That is my second principle. I do not think that anybody will quarrel with these principles. As I have already said, the Madras Act, called the State Aid to Industries Act, provides that if the Madras Government give a subsidy to an industry, the Madras Government shall have the right of representation on the Board of Directors of that industry. I suggest that the Government of India should also claim certain representation on the Boards of Directors of those companies which receive protection. It may be said that it would be very difficult for the Government of India to secure representation on the Boards of Directors of several companies, but if an industry wants protection from the country that industry should make arrangements so that it may not be difficult for Government to be represented on the Board of Directors. Let the industry as a whole combine and then go to the Government for protection. But it is not difficult, I suggest, for Government to secure control over those industries which are protected, otherwise the industry will not be managed properly. They will not be managed efficiently, they will not be managed economically and they will be receiving protection at the cost of the country. I think, Sir, it is a very wrong principle. The principle which I have suggested has also found place in other legislation. As a matter of fact, the Government of India know this principle very well. The Government of India have helped the railway companies in India with their money and whenever they gave money and guaranteed interest to the railway companies they claimed a right to be represented on the Board of Directors of these railway companies. I cannot understand why Government do not ask for any control over the industries now to be protected, except the fact which I have mentioned several times in this House, that recently an alliance has come into existence between the Government of India and the capitalists, Indian as well as European, in this country to exploit the poor people here. Otherwise, I cannot understand why Government should not lay down a condition like this, a very reasonable condition which any Government will lay down, similar conditions have been laid down by this Government in other cases.

Sir, there is another provision in my amendment, and it is this. If an industry is to be protected by the nation at a great sacrifice, all the people interested in that industry should be protected. In the first place, if an industry is to be protected by the tax-payers of India, it is necessary that the employees of these companies should be also Indians. The industry is not going to be protected by Indian tax-payers to find employment for certain Europeans.

**The Honourable Sir Charles Innes** I rise to a point of order. The Honourable Member, I submit, is travelling outside the scope of his amendment. He has said nothing in his amendment about Indianisation. Clause (1) refers purely to labour conditions.

**Mr President** The Honourable Member will confine himself to his amendment.

**Mr N M Joshi** I am not talking of Indianisation. I am talking of the condition of the employees in the companies which are receiving

protection, and I say, Sir, that it is absolutely necessary that any company or any industry receiving protection from the Indian tax-payer must only employ employees who are Indians. As a matter of fact, if the Government of India insist upon it—and they ought to insist upon it—there will be a great saving made for the tax-payer in India. If the Honourable Member had read the report of the Tariff Board on this point, he would have known that the Tariff Board themselves say that if the employees of these companies are Indians

**Mr President.** Order, order. I must say the Honourable Member is absolutely out of order. He has all along been talking of Indianisation, about which there is no reference in his amendment. He should strictly confine himself to the three distinct points raised by his amendment and not travel beyond them.

**Mr N M Joshi.** My suggestion is that the labour engaged in these industries must be Indian and their interests must be protected. I have talked only of labour and I consider every labourer, every wage-earner is a labourer. It is only in that sense that I have used the word here and I have always used the word in that sense. However, leaving that aside, you will rule it quite in order, Sir, that I should say that it is necessary for the companies that receive protection that in the interests of the tax-payers they should economise and should show efficiency. The Tariff Board have already laid down that if these paper companies employ Indian employees, then they will make a saving of Rs 12 per ton. In the interests of economy it is necessary that only Indians should be employed as employees of these companies.

**Mr President.** If the Honourable Member persists in the same course, I shall have to ask him to resume his seat.

**Mr N. M. Joshi.** All right, Sir, I will not raise that point.

My second point is this. When the Tariff Board make inquiries about the condition of industries, it sometimes becomes necessary for them to ask questions of the employees and of the labourers of these companies and I do not find anywhere in our legislation provision giving protection to these employees who have to make certain statements as regards the condition of those industries. I find, Sir, from the Tariff Board Act of Australia that the Tariff Board give protection to these employees who have to make certain statements which may be against the interests of the capitalists of that industry to make those statements without any fear of being dismissed. They are protected against dismissal by the Act itself. I want to know, Sir, whether the Government of India and the Tariff Board have taken any steps to see that the employees of the firms which want protection and into the affairs of which inquiries are made by the Tariff Board will be protected from dismissal by the employers or from being treated in any way to the disadvantage of the employees wherever they have to make certain statements to the Tariff Board about the affairs of that company. I feel, Sir, that this sort of protection is absolutely necessary for the employees of any company the affairs of which are inquired into by a Tariff Board.

Lastly I would like to say one word about what you interpret as the labour conditions. Sir, in any industry, there is the interest of the capitalists who invest money and there is the interest of the people who invest their labour and I may say their very life in an industry. I should

like to know when the Tariff Board make inquiries into the conditions of an industry and decide whether that industry should receive protection or not whether they inquire into the labour conditions and find out whether those labour conditions in that industry are satisfactory. Here also, Sir, I may quote the example of Australia. In Australia, whenever any industry is given a bounty and is protected, Government lay down that that industry will not pay wages below a certain limit and the conditions there will be satisfactory. That is the way with all Governments. Even in England when Government want to give a contract to any company for anything, it lays down a condition that the company receiving the contract must give fair conditions of work to its employees. I do not know why the Government of India do not lay down such a condition. If the Governments of other countries have laid down such conditions whenever they have given certain kinds of protection and whenever they have given certain kinds of patronage to the companies asking for protection, I do not know why the Government of India do not lay down such a condition. If the industry is to be protected, let all the elements in that industry be protected. Let the capitalists be also protected, I am not against them. But if the capitalist is to be protected, certainly the interests of labour also should be protected. I know, Sir, that there are people here who always say, if an industry is not protected, where will the labourers go? They will be thrown on the street. And they sometimes express wonder why I ask for certain conditions to be laid down, when I know fully well that if an industry is not protected, the labourers will be thrown on the street. Sir, my reply to these people is this. I know that the capitalists know their interests very well. The capitalists want protection and they want certain sums of money from the Government for their industry. And, if the Government lay down certain reasonable terms as regards the labour conditions, the capitalists are not going to refuse protection. They will certainly accept the protection as well as give better conditions to the workers.

**Mr President** The Honourable Member is aware that we have a very heavy agenda to get through and his time limit is also up.

**Mr N M Joshi** I am almost concluding my remarks, Sir. In fact, this is the last point.

I therefore say that this is not the only alternative that the labourers will be thrown on the street if I lay down certain conditions. If I lay down these conditions and if the Government and the Assembly insist upon these conditions, I am quite sure the capitalists engaged in this industry will accept them. Therefore, there is absolutely no danger of the labourers being thrown on the street. Secondly, Sir, where is the guarantee that, even if you give protection, the labourers will not be thrown on the street? Those people who had studied the conditions as regards the retrenchment in the Jamshedpur steels works last year know very well that, even after protection, many thousands of labourers lost their jobs and at the same time 70 Europeans were employed. So, after all, there is no guarantee that even if you give protection to the paper industry, all the labourers in that industry will retain their jobs and some of them will not be thrown on the streets. Thirdly, Sir, I have studied this question.

**Mr President** No "thirdly." The Honourable Member must resume his seat.

**Mr N M Joshi** This is the last remark, Sir.



**Mr President** · The Honourable Member must realise that we have got a very heavy agenda to get through. Besides what the Honourable Member is saying is nothing new to the House.

**Mr N M Joshi** I, therefore, place my amendment before the House and appeal to the House that they should support my amendment because, if they support it, the interests of all will be safeguarded. The interests of the capitalists will be safeguarded because they will receive their protection, the interests of tax-payers will be safeguarded because they will get back their money, and the interests of the labour engaged in that industry will be safeguarded because the capitalists will have to produce a certificate that the labour conditions are satisfactory. I hope, Sir, that the House will accept my amendment.

**The Honourable Sir Charles Innes** Sir, I propose, if the House will agree with me, that I should deal with my Honourable friend's amendment as briefly as I can. I think that everybody in this House must admire the pertinacity and, I may add, the sincerity with which Mr Joshi moves amendments of this kind. But I am quite sure that the House will agree with me that the actual amendment proposed by Mr Joshi is quite unworkable. Let us take the first clause of the amendment. I noticed that Mr Joshi referred at some length to what they do in Australia and other countries. I also noticed that Mr Joshi was extremely careful to say nothing or very little about this particular clause of his amendment. I will ask the House to observe that it is suggested that

“ The company receiving the assistance shall produce a certificate from any officer appointed by the Government of India for that purpose, that the labour conditions prevailing in the works of the company are satisfactory ”

Now, it is nowhere stated what that means. What is it that this officer is going to do? We have got to have a separate officer for practically every mill in India. All we are told is that he has got to see that labour conditions are satisfactory. Does it mean that he has got to fix the wages? Or does it mean that he has got to see to the housing accommodation of the labourers? Surely the House will see that there is a grave danger in having an officer of that kind. He may be regarded as a Government spy, and the danger is that he may set employers and employees by the ears. This is my main objection to this clause of the amendment. It is wrong in principle. It is wrong in principle for the Government to interfere in this vague way between the master and man instead of leaving them to work together as they should. That is my first objection to the amendment.

Now, the second objection is this. As I said, this officer has got to be appointed in every mill in India. Supposing one mill is reported to have its labour conditions unsatisfactory and the other mills are reported to have their labour conditions satisfactory, what remedy has Mr Joshi proposed in such a case? The only penalty could be to take away the protection. That is to say, because the labour conditions at one mill are unsatisfactory all the mills should be deprived of the protection which the Legislature thinks necessary for them. I do not think I need say more about clause 1. I hope the House will agree with me that it is entirely unworkable.

Then, again, take clause 2. The Government of India are to be given such representation on the Board of Directors of every company

receiving the assistance as the Government of India may consider adequate Mr Joshi knows very well that at least one of the important companies making paper in India is a private company and has got no Board of Directors at all. Now, therefore, can we provide for this measure of Government control on the Board of Directors if there is no board of directors. That shows that so far as the paper industry is concerned, clause 2 is not workable.

Finally, Sir, I come to clause 3, which runs as follows

“ That the company receiving the assistance shall undertake to pay an amount to the Government of India out of the balance which may remain of the profits after the distribution of 5-per cent dividend to the shareholders of the company, equal to the amount which the company may have received through the rise in prices of paper due to the imposition of the protective duty ”

It is quite impossible to insert a clause like that. And, again, I submit that Mr Joshi is on the wrong lines. What Mr Joshi means is that we must protect the tax-payer. But, surely, the right way to protect the tax-payer in this matter is that as soon as the company's profits rise to a figure mentioned by Mr Joshi, you reduce your protective duties and then take away the protection. That is the best way of benefiting the tax-payer. If we were to adopt Mr Joshi's amendment, it would mean that we should impose protective duties in order that an uncertain sum should be paid back to Government. However we may admire Mr Joshi's pertinacity and his sincerity in this matter, I think that the House will agree with me that this amendment is entirely unworkable. I oppose it, Sir.

Mr Devaki Prasad Sinha (Chota Nagpur Division Non-Muhamadan). Sir, when this amendment was first placed before the House my Honourable friend the Commerce Member began by saying that it was out of order. But, when he came to discuss the amendment after my Honourable friend Mr Joshi has explained it, he says that it is unworkable. Well, Sir, the first objection which the Honourable the Commerce Member has put forward against this amendment is that it is very difficult for all paper industries of the country to unite in making the labour conditions prevailing in those industries satisfactory.

The Honourable Sir Charles Innes. May I rise to a point of explanation? I did not say anything of the sort. What I said was that it was quite impossible to appoint an officer with these vague duties.

Mr Devaki Prasad Sinha. With regard to the point about an officer, my Honourable friend says that we shall have to appoint spies and the appointment of spies will disturb the relations between the employers and the employees. Well, Sir, I do not know if Government think that all their Factory Inspectors are spies. I do not know if all the other officers that are appointed to safeguard the interests of the different sections are spies. It is only the Honourable the Commerce Member who has proposed this and I submit that he is only trying to create prejudice against this amendment by bringing in the names of spies and informers. The Government have an abundant supply of spies and informers. In this case, what we want is that they should have some official who will look after the interests of those whose interests require looking after. Objection is taken on the ground that it is very difficult to see that paper industries all over India will look after the conditions of labour. If paper industries all over the country can join in a demand

for protection, I do not see why they cannot organise and see that they deserve protection before they demand it

Then the second objection of my Honourable friend, the Commerce Member, is that one of the companies that is going to be benefited by this measure of protection is a private concern. How are we going to insist upon Government having a representative on the Board of Directors of that concern? The proper remedy for that is that before giving a subsidy or protection or help to such a private concern we should insist upon its being transformed into a joint stock company or a limited company, so that Government may have a share in the management of the concern. I am reminded by my Honourable friend to my right that the Naihati Mill in its representation to Government promised to transform itself into a joint stock company. The amendment is therefore not unworkable, though it may be unpalatable to those who do not want to give anything in return for what they get from the tax-payers.

The principal object in putting forward this amendment is—to put it bluntly—that we should make full use of this moment of necessity for the employers, for the capitalists, and if at this moment of necessity we do not insist upon their giving proper facilities to the labourers working under them, we shall lose that opportunity for ever. If at this moment of necessity they are not going to listen to the demands for amelioration of the conditions of labour, they will not listen to such demands in the days of prosperity. Therefore we want that before we give help and assistance to any capitalists we must insist upon their safeguarding the interests of those whose interests it is then duty to safeguard. There is nothing unworkable, nothing revolutionary, nothing unconstitutional about this amendment. We only demand what is due to the tax-payer, what a man who comes to Government for help ought to submit to before Government agree to help him, namely, a certificate of good character. It is very necessary to have this, before we give assistance or subsidies to those that demand them. I therefore support this amendment.

**Mr President** The question is

“That at the end of the Resolution the following be added

‘Provided

(1) That the company receiving the assistance shall produce a certificate from any officer appointed by the Government of India for that purpose that the labour conditions prevailing in the works of the company are satisfactory

(2) That the Government of India are given such representation on the board of directors of every company receiving the assistance as the Government of India may consider adequate.

(3) That the company receiving the assistance shall undertake to pay an amount  
1 p m to the Government of India out of the balance which may remain of the profits after the distribution of 8 per cent dividend to the shareholders of the company, equal to the amount which the company may have received through the rise in prices of paper due to the imposition of the protective duty’ ”

The motion was negatived by 58 votes against 37

**Mr President** The question is

“That the following Resolution, as amended, be adopted, namely

‘This Assembly recommends to the Governor General in Council that assistance be given to the bamboo paper and paper pulp industry in India by the imposition until the 31st March 1932 of a specific protective duty at the rate of one anna per pound on all printing papers (other than chrome, marble flint, poster and stereo and supercalendered paper imported in reels) which contain less than 65 per cent of mechanical wood pulp and on all whiting paper’ ”

The motion was adopted

*Thursday, 17th September 1925*

## RESOLUTION *RE* PAYMENT OF BOUNTIES UPON WAGONS

**The Honourable Sir Charles Innes** (Commerce Member) Sir, I beg to move

“That this Assembly recommends to the Governor General in Council that legislation be undertaken to amend section 4 of the Steel Industry (Protection) Act, 1924, so as to empower the Governor General in Council to pay by way of bounties upon wagons a sum not exceeding 21 lakhs during the three financial years commencing on the 1st day of April 1924, 1925 and 1926, instead of a sum not exceeding 7 lakhs in each of these financial years”

The explanation of this Resolution, Sir, is that section 4 of the Steel Industry (Protection) Act as now drawn up limits us to the payment of not more than Rs 7 lakhs in any one year during the life of the Act in payment of bounties upon wagons. No sooner had the Act been passed last June than we called for tenders for wagons and we placed orders in August last. We had of course lost 4 months of the financial year and it takes wagon firms a considerable time to collect materials. The result is that though we placed orders for 2,300 wagons in August of last year, we were only able to pay in the way of bounties Rs 2,85,000 in the financial year ending the 31st March last. Consequently, out of the Rs 7 lakhs allotted for bounties in the current year upwards of Rs 5 lakhs are due for wagons for which orders were placed last year, and for our wagon orders this year we have got only one lakh and so many thousand rupees. We have placed orders this year, and the result is that next year's bounty will largely be spent in paying the bounty on wagons ordered this year and we shall only have about 3 lakhs for fresh orders next year. That is the reason why I am asking the House to agree that we should make the policy of the Legislature effective allowing us to spend 21 lakhs in three years instead of not more than 7 lakhs in each year. The reason why I am taking this rather peculiar procedure of putting a Resolution before the House instead of suggesting an amendment of the Steel Industry (Protection) Act is this. One of the questions that was inquired into by the Tariff Board at its recent inquiry was not only steel manufactured by the Tata Iron and Steel Company but also the question of wagons and other subsidiary steel. We expected their report and we delayed this matter until we got their report. But we got that report so late that it was quite impossible to do anything with it this Session. In the meantime, if I do not get this altered, we shall be in great difficulties in placing orders in November next for the year 1926-27. That is why I am asking the House to agree to this proposal on the understanding that I will bring in a Bill to amend the Act next Session. Sir, I move

**Dr. K. G. Lohokare** (Bombay Central Division Non-Muhammadan Rural) Sir, at the time of the first Resolution when these bounties were proposed I had drawn attention to the necessity of a provision and I want again to lay before the House the same provision that in placing contracts for wagons in India, in the years the bounties are allowed, Government will pay attention to the necessity of Indian produced steel being utilised by such companies. That is one of the foremost conditions which should be satisfied before bounties are permitted by this House. Last time I invited the attention of the House to this matter, and I again take the opportunity of doing so. I hope the House as well as the Member in charge will accept this provision.

**The Honourable Sir Charles Innes** The Honourable Member knows, I think, that there are certain classes of steel which cannot be obtained in India at present, but I think the House may rest assured that the firms building these wagons do buy Indian steel wherever Indian steel can be suitably procured in India

The motion was adopted

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*Wednesday, 2nd September 1925*

## RESOLUTION *RE* PROHIBITION OF THE IMPORT, MANUFACTURE AND SALE OF LIQUOR

**Mr President** The House will now resume further discussion of the following Resolution moved by Haji Wajihuddin on the 5th February, 1925

“ This Assembly recommends to the Governor General in Council that legislation be undertaken prohibiting the import, manufacture, sale and use of all sorts of liquors in India and in the meantime he be pleased to direct the local administrations under his control and convey the opinion of this Assembly to all other Provincial Governments that they should take steps forthwith to grant to the local bodies within their jurisdiction the right to determine the number and location of liquor shops within their respective areas ”

**Maulvi Muhammad Yakub** (Rohilkund and Kumaon Divisions Muhammadan Rural) Sir as a Mussalman, it is my bounden duty to give my hearty support to the motion which has been moved by my Honourable friend Haji Wajihuddin. But leaving aside religious sentiments, I am strongly of opinion that for the amelioration and betterment of the conditions of the people of this country it is highly desirable that the legislation indicated in the Resolution of my Honourable friend should be taken in hand as soon as possible. The evil of drinking has now been recognised by all the civilized nations of the world and sincere efforts are being made to remove this great evil. Temperance societies and temperance associations have been formed in nearly all the civilized countries of the world and a very large number of public-spirited men and women have devoted their whole lives to this noble cause. I am aware that in America legislation has already been passed by which certain local bodies have been empowered to introduce measures prohibiting the sale of liquor within their jurisdiction, and in pursuance of these measures several local bodies in America have totally prohibited the sale of liquor in their jurisdictions or in their constituencies. Since the Resolution on the prohibition of liquor was moved by my Honourable friend Haji Wajihuddin Sahib in this House on the 5th February last, many communications in support of the measure, from Indians generally, have been received. According to my information, no less than 100 leading Indian vernacular papers have expressed full approval of the Resolution. Many associations in different parts of India have passed Resolutions strongly supporting the subject matter under discussion. A number of my Honourable friends in this House are aware that, during the last winter, when the Assembly meetings were held in Delhi the Reverend Herbert Anderson invited the Honourable Members of this House and leaders of India to a meeting to form a prohibition league for India, and decided to hold a general meeting next winter at the Imperial City for which the necessary arrangements are being made and I wish his efforts every success. Now, Sir, there is much that we may learn from American prohibition. In a remarkable article by Dr Samuel McCune Lindsay on Prohibition perhaps the most remarkable sentence is this

“ Americans of all classes in increasing numbers perceived that quite irrespective of their personal habits or desires with respect to the consumption of alcohol, they could not secure the advantages of abstinence, or of moderate and perhaps harmless consumption, on the part of the weaker and more numerous members of any community unless they themselves were willing to forego the liberty of personal consumption, even though they belonged to the minority whose efficiency might not in any case be seriously impaired ”

With such a noble impulse actuating the vast majority of the 110 millions in the United States, is it surprising that that great country was able to rise to the lofty height of self-denial involved in the passing of the prohibition amendment? If India desires to take her proper place among the nations, a similar moral impulse must actuate her people in the present day. And since "no man liveth unto himself", total abstinence becomes a personal responsibility, if only for the sake of personal example. American prohibition has a solemn lesson to teach the whole of the Indian nation in these days when India is laying the foundations of her future national greatness. The new Reforms, the movement against "untouchability", and many other Indian movements will all be unavailing unless India deals diastically with the drink menace which is so steadily growing on every hand. History shows the drink traffic to be a peculiar danger to all industrial communities, and with India's rapid industrial growth it is imperative that India's drink traffic should speedily be brought to an end. Note what India may learn from the United States of America. The conviction had grown steadily in the United States that social and industrial efficiency and national unity of purpose could not be had at any cheaper price than the cost or sacrifices involved, whatever they might be, in national prohibition, and this belief had almost reached the point where it could be translated into effective governmental action even before the war necessitated a supreme effort for such efficiency. How great a hindrance the liquor traffic in India already is to India's industrial efficiency is well illustrated by the remarkable publication of Mr. G. Findlay Shirras, Director of the Labour Office, Government of Bombay. In his "Report on an Inquiry into Working Class Budgets in Bombay" we have 3076 detailed budgets of working-class people in Bombay City, 2,473 of these being for families and 603 for single men, collected between May 1921 and April 1922. The estimate of the investigators is that those families who drink spend at least from eight to ten per cent of their income on alcoholic liquor. When we remember that according to the census of 1921, there are in Bombay City 3,125 single room tenements occupied by 2 or more families, out of which 1,955 are occupied by two families, 658 by three, 242 by four, 136 by five, 42 by six, 34 by seven and 58 by eight families or more, can we resist the conclusion of the *Servant of India*, the organ of the Servants of India Society when it concludes as follows:

"Little wonder that the millhand in the midst of this unimaginable overcrowding should try to find out the 'shortest way out of Bombay' by resorting to drink. We do not, however, expect a Government servant like Mr. Shirras to advocate total prohibition through legislation, but after all is said it is the only remedy. Liquor is mainly responsible for the poor efficiency, domestic misery, heavy indebtedness and, absenteeism of the worker, and tinkering with the problem will spell nothing but waste of time and energy."

One other figure may be given to show the imperative need of removing every factor menacing the living conditions of the people in cities like Bombay where the drink habit is seen at its worst. The Medical Officer of Health for Bombay City states that the infant mortality of Bombay City during the decade ending with 1922 was no less than 475 per thousand, the highest in the world, the figure being as high as an average of 666 per thousand in 1921.

What the attitude of Europeans in India should be on this great matter affecting India's destinies has been indicated by one of the greatest

of Englishmen in India Dr Palmer, the Bishop of Bombay, stated a few years ago in his written evidence before the Excise Commission appointed by the Bombay Government

“ If the situation was that the vast majority of responsible people were against the consumption of alcoholic liquors and that large numbers of irresponsible people abstained from them on account of custom or religion and that only a relatively small number of people consumed them—that was a situation which did not exist in Europe and which provided all the conditions for a system of total prohibition ”

That such a situation does exist in India is clear from the demand of almost all Hindus and Muhammadans, from the fact that practically every religion in India enjoins total abstinence, from the statement of a Poona *mal* (gardener) before the Bombay Excise Commission that 80 per cent of his fellow *malis* would vote for the closing of all liquor shops had they the opportunity of voting on the question, and from the remarkable “ goddess movement ” in the Tapti Valley among the Kaliparaj tribes where the liquor customs temporarily came so near total extinction as to threaten the liquor receipts of nearly twenty lakhs of rupees in the Baroda State and where in British districts the officials have gone so far as to close the liquor shops in accordance with the clearly expressed desire of the people. Such an attitude on the part of British officials is eminently statesmanlike, for intimate conversation with educated Indians has convinced us that among the factors endangering the connection between India and Britain, the continuance of the drink traffic in the teeth of Indian sentiment is one of the most dangerous.

Sir, I know that the Government have not been unmindful in introducing measures of social reform in this country. Laws relating to the abolition of slavery, and the prohibition of infanticide and *sati* were passed in British India long ago, and only yesterday we discussed a Government Bill, passing certain portions of it—I hope the rest will also receive the full approval of this House—which aims at the protection of girls of tender age. Laws relating to gambling, the sale of cocaine and other similar measures have also been passed in India, and it is really surprising that this, the greatest and noblest of social reforms, has hitherto escaped the attention of Government. I am aware that some half-hearted measures have been introduced in certain Provinces, but in my opinion they do not go to the root of the evil. Better late than never, and I hope that by accepting this Resolution the Government will give proof of their earnest desire in this direction. With these remarks, Sir, I heartily support the Resolution moved by my Honourable friend Haji Wajihuddin.

**Dr S K Datta** I beg to move the amendment which stands in my name but which will now read as follows

“ That for the original Resolution the following be substituted

This Assembly recommends to the Governor General in Council that he be pleased to accept as the policy of the Government the ultimate prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first steps in carrying out this policy (a) that the import of spirituous liquors into India be more rigidly controlled, (b) that Provincial Governments be urged to undertake legislation whereby the control of the sale of spirituous liquors will be vested in Local Bodies, Licensing Boards elected on a popular franchise or be regulated by a system of local option wherever possible ”

Sir, this morning I do not desire to argue the case for prohibition on the grounds of religion or even on the highest ethical grounds. Personally, I do not believe that we have a case on either religious grounds or the



highest ethical grounds, but my whole plea will be limited to certain medical and economic considerations. May I give an illustration of what I mean? I believe there is a State in India to-day where two things are prohibited on religious grounds, first alcohol and the second subjects of the State may not under the pain of compulsion change their religion. That has been done on the ground of religion but I have no desire this morning to argue my case from that point of view. —Now, let me come to the question of the two grounds I have mentioned, namely, medical and economic grounds. In the first place, the use of alcohol as a beverage in small quantities results in the reduction of skill. In the second place, larger quantities are definitely injurious, insanity and criminality are the result. With regard to insanity, take the case of the State of New York for which I have certain figures. Out of a population of 100,000 persons in the State of New York in 1909 63 were admitted into asylums on the ground of insanity, in 1910, 64, in 1917, 6, in 1918 when the first results of prohibition began to appear, 35, in 1919, 26, and in 1920, 12. Thus, then, is one of the results I believe which were achieved. We cannot yet say with certainty, but figures point in the direction that there has been an increase in public health within the limits of that particular State.

Now, Sir, may I argue for a moment on the other ground which I have stated, namely, the economic grounds? I desire, if possible, this morning to place before the House certain figures relating to the revenue accruing to Government, in other words, the results of taxation of the Indian people through the instrumentality of both liquor and drugs. Unfortunately, Mr. President, I am not able in these figures to make a distinction between alcohol and drugs, and if you will permit me, I will give the results of these figures. In 1912-13 the total revenue accruing to the Government from excise, both central and provincial, was 12,32 lakhs, which meant taxation per head of Re 0 7-9 of the total population of India. In 1913-14 it was 13,30 lakhs, and the taxation per head was Re 0 8-5. In 1918-19 the total of income from liquors and drugs was 17,25 lakhs representing taxation of Re 0 10-11. In 1923-24 the total under alcohol and drugs was Rs 19,20 lakhs representing taxation per head of Re 0-12 5. Indeed, the revenue from alcohol and drugs in India constituted one of the principal heads of revenue of the Government, both central and provincial. We take, for example, the total in 1923-24. Under the principal heads of revenue the Government of India obtained Rs 74 crores and the Provincial Government Rs 73 crores, altogether a total of Rs 147 crores. In other words, between one seventh and one eighth of the total revenue of India came from these sources, namely, from alcohol and drugs. The amount was just under a half of the total receipts from Customs and more than a half of the total receipts from Land Revenue. It is against this indirect method of taxation whose incidence falls on the poor that I desire to have my argument to-day. We believe that a policy of restriction—a policy of prohibition will result in freeing an enormous amount of the population from taxation from which they get nothing in return. In the second place, although we are yet free from the power of liquor interests in this country, liquor interests in the United Kingdom and America have been one of the most harmful things in the life of those two countries. Over and over again reform has been blocked by the action of the liquor interests both in America and in England, and

I desire that before these enormous liquor interests become established in this country we should bring them absolutely under control.

Now, Sir, I come to the actual policy of prohibition. My advice to the country is to go slowly. Incidentally I may say that I desire to exempt from any personal discomfort the front Government Bench and shall include also the leaders of the major parties of this House. The struggle in America has been a very long and arduous one. Prohibition did not come in a day. May I be permitted to give the House the stages by which prohibition was established in America? From 1851 to 1869 steps were taken to bring about State prohibition, that is to say, single States were considering whether they should bring about prohibition within the limits of their individual States. Any effort in that direction was finally killed by the Civil War in the United States of America. Then again from 1886 to 1893 we have a second wave of State prohibition with the result that only six States declared for prohibition and three States as a matter of fact repealed the laws of prohibition within the limits of their own States. Then again between 1893 and 1906 there were renewed efforts towards prohibition. The American experience has taught us two things. In the first place it has taught us that you cannot have prohibition in one State without having prohibition in other States because the influence of one on the other is bound to be bad. In the second place prohibition has taught America that an international frontier itself may be a menace and may stultify the efforts of a nation towards prohibition. I have had to cross the Canadian-United States frontier and fortunately, or unfortunately if you like, the American Inspector of Customs was much too drunk to examine my baggage for the purpose of investigating whether I was carrying liquor. He had obtained it from the Canadian frontier. (Laughter.) Let us not laugh. The British people themselves have in fact brought about the downfall of prohibition in a country like China. There are to-day ships along the Atlantic coast of America waiting to smuggle liquor into the country. Between 1835 and 1839 the East India Company's ships were blockading the waters of the Canton river with their cargoes of opium in spite of the prohibition of the Chinese Government. There is a parallel in the experiences of the two countries, the experience that America is having to-day and the experience of China rather under a century ago. As I said before, it is this question of international frontiers which is bound to have some effect on the policy of prohibition adopted by any country. Now, Sir, other countries apart from America are working towards prohibition. The latest example is that of a country most dear to the people of the British Empire, namely, the Dominion of New Zealand. In 1923 when I visited New Zealand, they had just then completed an election or rather a referendum on the question. There were three issues before the people of New Zealand, the old system of license, State control and State management, or prohibition. As the result of years of work, what happened? The prohibitionists had the largest number of votes, though not large enough as compared with the total votes for State management on the one hand and the old license system on the other and prohibition did not go through yet it was a great victory for the prohibition sentiment. In Australia there are various licensing laws and in some of the new States of Western Australia the tendency is towards prohibition. It has been said that prohibition has been a failure in America, but I do not believe it myself. I have been in America and I

cannot say that prohibition has been a failure. On the other hand I can say that the prohibition sentiment is growing, certainly in some of the new countries like New Zealand and even in Australia. Now, Sir, if you will permit me this morning, I will make a reference to what I consider a very grave hampering condition in the original Resolution. You cannot have prohibition of alcoholic liquors in any country without first controlling the traffic in drugs. That is the immediate result. I regret that my friend Haji Wajihuddin did not realise that when he placed his Resolution before this House. Every country that is working towards prohibition has, in the first place, stringently controlled the use of all drugs. Take the example of England for example. I have before me the report the Home Office Commissioner on the Framework Knitters of Leicester issued in 1845. It tells us about conditions prevailing among the industrial classes in Leicester at that time. The Commissioner informs us that the people are too poor "to indulge in church-going or alcohol." He continues as follows:

"Their publican is the druggist, where they buy opium for themselves, and Godfrey's cordial, a preparation from laudanum, for their children."

That was before England began to control her own liquor traffic. By the Pharmacy Act of 1858, the prohibition against the sale of opium for other than medical purposes was complete. This omission is a very grave one and I trust it will be rectified.

Now, Sir, there is another matter to which I wish to draw the attention of this House and that is the control of imported liquors into this country. The value of imported liquors in 1912 and 1913 with regard to ales and beer was 68 lakhs, in 1923-24, 78 lakhs, spirits 1 crore and 16 lakhs and in 1923-24, 2 crores and 9 lakhs. Wines came to 28 lakhs in 1913 and in 1923-24, 26 lakhs. Indeed when you come to calculate in gallons in 1914-15, wines and beers imported into this country amounted to 3½ million gallons, in 1923-24 2,840,000 gallons. There was a reduction under beers and ale, wines also similarly declined from 2,74,000 gallons in 1914-15 to 2,25,000 gallons in 1923-24. On the other hand spirits showed a tendency not to decrease but to rise. In 1914-15, we imported 1,665,000 gallons of spirits. In 1923-24, 1,666,000 gallons of spirits.

**Mr A H Lloyd** (Member, Central Board of Revenue) May I ask where these statistics have been taken from?

**Mr S K Datta** From "the Statistical Abstract" under the head of imports.

**Mr. A H Lloyd** They are figures of imports?

**Mr S K Datta** Yes. I believe the Government ought to investigate this question of the control of imports of spirit and see whether the imports of spirits into India should not be more strictly controlled. "Spirits" above all are one of the most dangerous forms of alcohol in this country. Opinion is gaining ground all over India in the direction of prohibition. There have been expressions of popular opinion during the last 30 years and they have never been so strong as to-day. The Excise Committee appointed by the Government of Bombay has accepted ultimate prohibition as their goal and the Government of Bombay have in their turn accepted the recommendation of the Excise Committee, I trust.

that the Member for the Bombay Government in this House will remember that fact when he comes to vote on this question. The Calcutta Corporation and many Municipalities have also passed resolutions with regard to prohibition of liquor. Above all, we shall obtain no change of policy in this country until the control of the sale of liquor is vested in popular bodies and that is what I provide for in the last portion of my Resolution. Now, my position is this—that ultimate prohibition is the goal towards which we aim. We have to go slowly feeling every step as we go along that path. We must bring pressure to bear all along the line and furthermore we must insist that in local areas authority and power to control the sale of liquor should be vested in bodies elected on a popular franchise.

With these words I commend my Resolution as amended to this House.

**Colonel J D Crawford** (Bengal European) Sir, in rising to oppose the motion moved by my Honourable friend Mr Haji Wajihuddin, I regret, Sir, that you ruled the amendment which I had on the paper out of order, because I feel that I myself, every Member in this House and every decent member of the public, be he Indian or European, have the same motive at heart. The last speaker Mr Kelkar, I do not think, had very much case to put in front of this House in favour of prohibition. So far as I can see the whole of his speech was taken up with a certain amount of abuse of myself. (Laughter) With regard to the amendment moved by Dr Datta, I feel that he has not really the courage of his conviction. He is procrastinating. If prohibition is the policy which is going to be right in the end, then, Sir, it is the policy which we should introduce to-day, we should agree to it and find the ways and means. If, however, I can convince the House that it is the wrong policy to aim at, then I hold it is wrong not only to-day but wrong 10 years hence. I rather admire the Mover of the original Resolution. He has had the courage to state in quite a straight way that he favours prohibition. What is the object we have in view? The extreme temperance man brings various charges. He says alcohol is a poison and it is largely responsible for crime. Now, Sir, I contend that this is an exaggeration of the true facts. We are all aware that alcohol taken immoderately is harmful, but at the same time we are equally aware that alcohol taken in moderation is certainly not harmful but in very many cases beneficial. With your permission, Sir, I will read to the House the opinion of some prominent medical men. I had expected the prohibitionists to have marshalled an array of medical opinion before the House. They have given some. Here is the opinion of those who are in favour of moderation. Lord Dawson of Penn, the famous specialist, speaking in the House of Lords on the 19th July 1923, says

“ I deny that alcohol, taken in moderation, is a narcotic. It adds to the pleasure, the exhilaration, the happiness and the gaiety of life. (Laughter) It is also responsible for the toleration with which members of this House meet one another ” (Laughter)

Professor Ernest H Starling of the University College, London, says as follows

“ The evidence has convinced me that in a civilized society such as ours the abolition of all alcoholic beverages from among our midst, even if carried out by universal consent, would be a mistake, and contrary to the permanent interest of the race. Alcohol is without doubt a food ”

(An Honourable Member “ Not for the tropics ”)

A manifesto signed by 16 of the greatest authorities on medicine, chemistry, and dietetics appeared in the *Lancet* in 1907, the great medical Journal, which said that

“Recognising that, in prescribing alcohol, the requirements of the individual must be the governing rule, we are convinced of the correctness of the opinion so long and generally held, that in disease alcohol is a rapid and trustworthy restorative. In many cases it may be truly described as life-preserving, owing to its power to sustain cardiac and nervous energy, while protecting the wasting nitrogenous tissues. As an article of diet, we hold that the universal belief of civilised mankind that the moderate use of alcoholic beverages is, for adults, usually beneficial is amply justified.”

Now, we have got down to our object. Our object really is, as I stated in my amendment, the elimination of the evils arising from the immoderate use of alcohol. Having got that as the object which we all desire to attain, and having also the object of building up a really temperate State, it is now for us to decide what is the correct policy which will enable us to attain our aim. My Honourable friends who have already spoken on this Resolution have said that that policy is prohibition. I submit, Sir, that prohibition is not only ineffective and sterile and will not enable us to attain our end, but that it introduces dangers of illicit traffic, poisonous drugs, contempt for the authority of the law, and tyranny of Government officials over the individual (Hear, hear). Therefore, Sir, the dangers are far greater than the evils arising from the use of alcohol. We are inclined, I think, to exaggerate the evils in this country that arise from alcohol. The moral character of India in this matter is such that it will compare well with any country in the world in this respect. Now, as regards prohibition, I will ask the House for a moment to listen to some figures which I will quote from American statistics. Dr Datta gave us some figures relating to insanity in New York. I might add that I have here some statements regarding admissions to hospitals on account of alcoholic poisoning since the introduction of prohibition in America. The figures are given by Dr Dana Hubbard, Director of the Bureau of Public Health Education Department, New York, and he refers to the Bellevue Hospital, and King's Country Hospital, New York. In the year 1918 when America was wet the number of admissions to these two hospitals totalled 1,758. In the year 1922, four years after the introduction of prohibition, the admissions to hospitals on account of alcohol amounted to 5,624. (Laughter.) That is why, Sir, I contend that prohibition does not enable us to progress on the road we want to go.

Now, I would like to compare the figures for conviction for drunkenness in America with the figures for conviction for drunkenness in England where we have a policy of control. I will take one out of a number of towns. I take in England Sheffield with a population of 511,668 and in America I take Pittsburgh with a population of 588,343. In Pittsburgh the number of convictions is 1 in 24, in Sheffield the number of convictions for drunkenness is 1 in 1,999.

Now, Sir, if there is any one in this House who still thinks that prohibition is the policy which is going to lead us to the goal which we all desire, may I read for his information the opinions of some Americans on this subject. The Revd Ernest M. Mandeville, the new Secretary of the *American Churchman*, who professes to be a student of Prohibition on both sides of the Atlantic and who was in London last

July, bluntly states that the enforcement of the prohibition law in the United States is a farce. Mr Mc Giverin, one of the official leaders of American Labour, told the delegates at the Trade Union Congress at South Port, on September 7th, 1922, that prohibition has been proved a failure. There had, he said, been a wholesale violation of the law, and homes had become breweries and distilleries. Boot-legging is one of the most profitable businesses in the United States. Prohibition has created a disrespect for all law. Sir A. Mauris Low, the Washington correspondent of the *Morning Post*, writing on the 21st April last, states

“ No one can take Prohibition in America seriously. It is a farcical thing. But its effects are not farcical, they are serious and tragic. In consequence of Prohibition, not only is the law, criminal and moral, being rewritten, but the whole attitude of the American people in regard to both law and morality is in process of transformation. This is the serious and tragic side of Prohibition. It would be idle to pretend that anything that lowers the general standard of morality of a people can be for the advantage of the nation.”

Now, Sir, I would like to let the House know what has happened in other countries which have tried Prohibition. Norway has abolished Prohibition. Sweden has tried partial Prohibition. Russia had Prohibition and repealed it. Finland is now organising to abolish the prohibition law. Holland discussed Prohibition by a State commission and considered Prohibition inadvisable. In Switzerland, on a referendum to the people, Prohibition was rejected. In British Columbia there was Prohibition, it has since been repealed. Manitoba has dismissed Prohibition. Quebec had Prohibition but has repealed it. Australia has turned down Prohibition this year. New Zealand has administered as my friend Dr Datta said, a smashing defeat to Prohibition. New Foundland has already gone wet. Scotland had two elections under the Local Option Act, one in 1920 and another in 1923, the licenses lost in 1920 were given back in 1923. England is against local option. At the Labour Conference held in Brighton in 1921 an attempt to have a motion carried in favour of local option was so strongly opposed that it had to be abandoned. It is worth while noting that in France and Germany, where Prohibition is unknown, there are practically no unemployed. In Germany, the number of the unemployed is 15,000 and in France it is 12,000. That, Sir, is the opinion of other countries as regards the practical policy of Prohibition. But I would like to read the remarks of Stefansson of Iceland when that country also repealed the prohibition law. Iceland was, I believe, the first country to repeal Prohibition. He was a member of the Athling and the foremost worker on behalf of Prohibition. He says

“ The hopes which induced people to vote for the beautiful idea have been so poorly fulfilled that the country has, since the Prohibition Law came into force, not flown with the milk and honey of law abiding habits and good morals but with the whisky and brandy of the law breakers. The history of the Prohibition Law becomes sadder and sadder every year that passes. That which was to promote the well being and honour of the nation has come to be a shame and an injury to the nation.”

I think I have said enough to show that the policy of Prohibition is not the one that is going to lead us on the path of progress. I urge that the correct policy that we should adopt is one of control. There is one argument often used in favour of Prohibition and that is economical. There are those who say, “ Let us have Prohibition and we will improve the efficiency of our workers”, but if there was any

that argument surely countries which are total abstainers by religion, and a community which is total abstainer by religion would show us by their efficiency that there was truth in that statement. I do not believe that either Turkey or my Muhammadan friends desire to claim any greater measure of efficiency, either morally, industrially or politically over those of us who are not so bound by religion. I would refer for one moment to the point of local option. Prohibition is local option within the boundaries of a country, local option itself applies to narrower geographical boundaries. You don't alter the principle of the argument against Prohibition by altering the geographical boundaries.

Now, Sir, I would refer last to the very large ethical and moral principles which stand out, as my friend Dr Datta says, against Prohibition. I am convinced that Prohibition is ethically and morally unsound. It is an infringement on the rights of the individual. Man has developed from the individual to the family, from the family to the State, and not conversely. Thus man has made the State for the protection of the individual, so the individual comes before the State and the individual can exist without the State, although the State cannot exist without the individual. Therefore the State is made for the service of man. No Government has the moral right to interfere with the individual as to what he eats, drinks or how he serves his Creator. If, Sir, we have to render to God the things that are God's, and if by rendering to Caesar the things that are Caesar's, we are deprived of the free exercise of moral conscience, how then can we render to God the things that are God's? What I mean is, if the State can rightly compel us to render to Caesar not only the things that are Caesar's but the things that are God's, then it has no right I say to do so. The commandments and precepts of all religions are not prohibitions. They permit the individual to transgress. They do not, like the advocates of Prohibition, compel a man to eat or to drink anything or nothing. They apply to the individual punishment if he transgresses the bounds of morality, but, Sir, they leave him free will to obey or disobey. They admit the right of freedom of the individual to choose between right and wrong without which there can be no temptation, no sin and consequently we cannot advance to our own salvation. Without temptation we cannot earn merit, and if we are unable to abuse we cannot earn virtue. If we admit the rightfulness of Prohibition, then there is no end to the interference of the State in our private affairs. If we admit that the State has the right to probe down to the very roots whence by personal indiscretion disorders sometimes spring, then the inevitable result must be an intolerable slavery. Those men who value man's most precious gift, the gift of freedom, are totally opposed to State teetotaling, even though they have a very lively horror and vigorous detestation of drunkenness. I believe that we shall progress towards a temperate State only by a policy of control. I have left out altogether the practical considerations of finance, because I said if Prohibition is right, have the courage of your conviction and find the ways and means to enforce it, but I hold that Prohibition is not only not right but brings with it greater danger to the State and its citizens from illicit traffic and contempt of authority, law and order. And lastly, and I am sure that most Members of this House will agree with me, it brings into your house the tyranny of the petty Government official and the police.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber, Indian Commerce) Sir, I rise to support the amendment moved by my Honourable friend Mr Kelkar. Before I put before the House in very few words the main reasons why I am persuaded, by conviction, to support this amendment I would like to take the House back to the arguments which were advanced yesterday by the Honourable the Home Member in considering the last Bill which the House left unfinished. Sir, it was admitted both from the Government Benches and also from representatives of orthodox Hindus in this House that it was a sheer humanitarian measure that girls of 13 or 14 should not be allowed to become wives. Diplomacy however dictated it to the Home Member that the Government would not suggest anything more than the age being raised to 13.

This, Sir, is the great consideration which Government exercise when they discover the sentiments of Hindus based on religious tenets, even though an amending Bill be a humanitarian measure. Rightly or wrongly my friend opposite there said that according to his reading of the Shastras religion had nothing to do in this connection of tolerating girls of 12 being wives and mothers. This, however, Sir, is the consideration which the Government paid yesterday to the religious sentiments of Hindus in one connection.

The Resolution before the House to day is a Resolution where the religious dictates and the religious tenets and sentiments both of the Hindus and the Muhammadans are unanimous. Few are the occasions when these two religions dictate something so similar and I submit that the Resolution which the House discusses leaves not the slightest scope for Government to exercise that ultra-conservatism for the policy followed till now and that the great solicitude which the Honourable the Home Member claimed to exercise yesterday for orthodox Hindu sentiment was doubly due to the Hindu and Muslim of India on this question of excise to day. I feel therefore that the amendment of my Honourable friend from Poona is one which should receive very strong support at the hands of Government.

It has been said, Sir, by my Honourable friend Colonel Crawford that drink in moderation is a necessity. I have not yet heard anybody here say that India has not till now had enough and that the drink traffic should be allowed to increase still further. Many thanks for this small mercy. All are now agreed that the drink traffic if it should not be completely prohibited should certainly not be allowed to increase. My Honourable and gallant friend Colonel Crawford quoted several medical opinions on that score and my Honourable friend from Bombay Mr Jamnadas Mehta quoted others. I do not know which were the weightier. (*Mr Jamnadas M Mehta* "Mine") I do not propose to enter the realm of the opinions of these medical experts but I cannot help feeling this—that if drink is good in moderation and is extremely harmful when it is overdone there certainly ought to be some sort of school or institution started by Government where they can teach people, who want to drink, up to what point they must go and at what point it is injurious to them. The only school which can be said to be most effective is spread of education and I put it to the Government Benches whether they feel justified, in view of the low percentage of education amongst the masses in India, in putting at the very doors of the masses in India drink *à galore*. What is it that



we find—not that shops are located at places which are inaccessible, not that shops are located at places where people may have to walk a few miles in order to get a drink, but that shops are located—and during the last 30 years the policy of the various Governments has been to locate shops—in such a manner that people not only can get at their drinks most easily but I could quote one or two instances where people were almost induced and tempted to drink. I do not, Sir, wish to make an allegation that this was done with any set sinister purpose, but, the fact of the location of the shops during the last 30 or 40 years certainly gives great support to the charge made by Mr Jamnadas Mehta, although he made it a bit too strongly, that the policy of Government has been to keep one eye on the increase of revenue that may be got in by this excise policy of theirs, and it is, Sir, that policy of theirs that this House wishes very strongly to deprecate and which the House asks Government to abandon from now onwards.

My Honourable friend Colonel Crawford, I think, made a very reasoned speech. His logic as far as I was able to follow it was absolutely perfect. My only difference of opinion with him is that the arguments that he employed are well fitted for a western country and that they are absolutely unsuitable to the East. In the East the climatic conditions, religious tenets, the pulse of the people, if you like to consider that too and what is most important to my mind to-day, the very low standard of education—all these taken together make it the duty of the Government to see that the temptation to drink is put outside the easy reach of the poorest of the poor and certainly is made prohibitive as far as prices are concerned.

**Mr K Ahmed** Why do you exclude the Europeans in this country?

**Sir Purshotamdas Thakurdas** My Honourable friend asked a question. There will be time enough, when Government accept the policy which this Resolution seeks, to consider that comparatively small point. The Europeans and those amongst the Hindus and Muhammadans who wish to indulge in drink and minorities like the Parsis and the Jews, surely, Sir, none from these small numbers can dare to get up and say that for the sake that they may get at what is legitimately a part of their drink the policy adopted by the Government should be such that the poorest, the most illiterate and ignorant masses should be exposed to any temptation to drink.

**Colonel J D Crawford** May I ask a question, Sir? How can Government prevent the masses getting their drink when God places it at their doors?

**Mr N M Joshi** May I ask what the English people do in America?

**Sir Purshotamdas Thakurdas** My Honourable friend Colonel Crawford has asked what Government are to do when drink is placed at the door of the people by God? May I ask my gallant friend, because poison is placed at the door of men, he would get up in this House and say that Government should allow the poison to be sold freely? Surely my gallant friend has rather overshot the mark.

Now, Sir, I wish to state to the House one very striking incident which I myself was a witness to. I happen to be connected with a rather important place of pilgrimage in Guzerat and I happen to have to go there three

or four times a year almost at regular intervals. My connection with that temple goes back to about 13 years. About 6 years back I was thunder-struck and taken aback when during one of my visits to that place of pilgrimage I found that a grog shop had been located within ten minutes' walk from the main temple. At least 10 lakhs of Hindus pay their homage there year in and year out. The population of that place consists mostly of Hindus. There is a small fraction of Muhammadans, but they are very devoted Muhammadans, they are pucca Muhammadans, who as far as my reports went never cared for drink and shunned it as much as they shunned poison. I inquired of the people, and asked the temple authorities, why this shop was allowed to be located on this new spot. The reply given to me was that it was the order of the Collector that the shop should be located there, and that the man who let the rooms got three the rent that he got from the previous tenants. Needless to say that it did not take me less than six months to get the shop removed from there despite the most earnest request of the majority of the inhabitants of that small place. But, Sir, if this is the policy, is it not right that every Hindu, every Muhammadan, and I dare say even my gallant friend Colonel Crawford will join with me and should protest against this policy which seeks to place liquor not only right at our door but brings it to a man so that he may be tempted to go in for it. This, Sir, is a policy that we wish absolutely to kill.

A good deal, Sir, has been made of the question of the finances concerned in this matter. I do not overlook the fact that in considering the question either of a substantial reduction or of the total prohibition which my Honourable friend from Poona wants as the ultimate goal, the question of finances unfortunately looms very large and cannot be overlooked. But I do not think it lies to the credit of the Government of India, Sir, that they should have to plead that amongst the important sources of revenue for their administration in this country is this one of liquor excise money which may safely be called "tainted money" (*A Voice* "The wages of sin"). Sir the steady increase in the revenue got from liquor excise should have opened the eyes of the British administrators in this country, not when that revenue has reached 20 crores but when that revenue approached very nearly a crore. The idea with which this revenue was devised at the start may have been and I dare say must have been of the best. The administrators then must have said "let us put handicap on this so that it cannot increase the consumption of liquor" but steadily to have gone on allowing it to increase, until it reached 20 crores or anywhere near it—I take the figure mentioned by an Honourable Member here—is showing to my mind great disrespect not only to the religious tenets of the people but great disregard for the true economic welfare of the people. Sir, it is a misfortune that when our expenditure increases in various directions, we have to fall back upon receipts from tainted sources such as this. This year the Bombay Council was called upon to consider a Bill put before them by Government to take a share of the receipts from the totalisator on the race course. If the race course and betting on the race course were things which could be considered to be in the interests of the masses, one might have been able to understand this. The various cases of ruin of people who are attracted to the race course are notorious, and I really wonder, Sir, if the Government of India and those responsible for the good name of British administration in this country would not deplore the day which might come when they would be driven to this pass that some

matter of fact administrator might say, "Let us register brothels and public houses and let us take a share out of their earnings to carry on our administration." The thing, Sir, has gone beyond a practical joke, and to say to-day that we will not or that we cannot deal with this problem of liquor because of the financial aspect of it is to my mind, Sir, most humiliating for the Government.

I shall, Sir, now say a word about what I consider to be the remedy. The remedy is not one which can be laid down categorically and which can be achieved within a year or two or five or ten years. This House would be failing in its responsibility to the masses which it seeks to represent if it did not say that its ultimate goal and aim is total prohibition. We all realize that it is not a thing which is going to be attained within five, ten or twenty years, but with the real co-operation of the Government with due and correct attention given by the Government to the religious tenets of the people, with full consideration, honest consideration, given by Government to the responsibility which the Government incur by exposing the masses to the temptation of drink, when the masses have not had the education to understand that moderation in drink alone may save them from the worst effects of drink—and I here give full benefit of the doubt to Colonel Crawford that moderation in drink is as good as teetotalism. Until the masses are trained to that and are able to perceive that for themselves by means of education, until this useful precaution is available, I have no hesitation in saying that the Government of India are incurring the very greatest risk of the charge that they play a very important part in degrading the masses, even though it may be quite unintentionally and even if at the moment the financial aspect may be most important.

Have not the Government of India solved many financial questions of this magnitude, which at first looked prohibitive? Have not they solved many questions of this and a graver nature? May I suggest to my Honourable friend what is the amount of the revenue that the Government of India are a party to having sacrificed for India for the sake of the Chinese? (*A Voice* "£6 millions.") Why did you do that? Because of pressure from Europe. How dare you get up to-day and tell us that you can not take any steps in this direction where the children of the soil are concerned where the religions of the two largest communities concerned dictate that we shall not drink? I therefore feel that undue stress should not be laid on the financial aspect. If there is a will, there is sure to be a feasible way in this connection, and I hope that the Government of India's reply to-day will be one which will show that they perceive the evil, that they are prepared to respect the sentiment of the two communities and that they are prepared to lay down a very wise and far-seeing policy. Sir, I support the amendment.

**The Honourable Sir Basil Blackett** Sir, this subject falls within the province of the Finance Member because it has, as the last speaker has pointed out, an important financial bearing. But I desire to say at the outset that I refuse to approach the problem for a moment from the point of view of finance mainly or with any considerable bias in favour of revenue from an excise duty (Hear, hear). This subject lends itself as the House will have observed to a certain amount of levity. I am very anxious that I should be successful myself in avoiding any tendency to levity in my dealing with the subject to-day. It is a subject which has

given me, I may say, quite a considerable amount of sincere intellectual pleasure in the course of the time that I have been in India, for this is not the first time that I have been prepared to speak on the subject, though it is the first time that I have actually been called upon to do so. The number of by-paths into which one can be led in considering the subject of the use and abuse of alcohol is really quite entertaining. I have been induced to read quite a considerable account of literature relating to early Indian habits and customs and the Vedas and epics of Indian history for references to the use of alcohol. I have been induced to become acquainted not with the taste but with the literature of the wine of Shiraz. I have also been led into by-paths of medical science and have read quite a large number of opinions on both sides of the question from eminent medical authorities. I have had to study—though it is a subject with which I had already some personal acquaintance—the history and results of prohibition of alcoholic liquor in the United States of America and that I assure you is not the least entertaining portion of the study.

Now, the Government have not put down, as the House will observe, any amendment to this Resolution. I should have been willing to support, though not with entire conviction, the amendment in the name of Colonel Crawford if that amendment had been moved. I do not think that it is entirely a negative amendment, though of course I accept the ruling that it is substantially a negative and therefore not in order. But the reason why I should not have supported it with entire conviction is precisely the reason with which it has been ruled out to-day, that it is too much of a negative. Let the House consider where we are. I believe that there is absolute unanimity in every part of this House on the main proposition that every effort should be made by the Government of India to combat any abuse of alcoholic liquor; that their policy should be directed to securing that India should remain free, as she has happily been on the whole free, from any of those habits of intemperate use of alcoholic liquor which have in the past been a noticeable feature in the life of some of the Western countries. We are all agreed as to that part of the subject we are discussing to-day. Where we are not agreed is as to the ultimate goal. On behalf of the Government I regret that it is quite impossible for me to accept anything in the nature of a commitment by the Government to a statement that the ultimate goal of policy should be prohibition. I am rather in agreement with Sir Purshotamdas Thakurdas' representation of the picture. He said that for the next 20 years prohibition should not be regarded as a practical policy for adoption. He went on to say that when the masses of India were sufficiently educated, then they might be reasonably allowed to exercise their own discretion in the moderate use of alcohol. If that is really what he meant, his ultimate goal is not prohibition, it is only his penultimate goal.

**Sir Purshotamdas Thakurdas** In order that there may be no misunderstanding, may I say, Sir, that my ultimate goal is prohibition. What I said was that, even admitting the arguments of the other side until the masses were better able to judge for themselves regarding moderate drink the Government could not justifiably follow their present policy. The Honourable Member is turning it round.

**The Honourable Sir Basil Blackett** Government have no desire to shirk responsibility in this matter.

**Sir Purshotamdas Thakurdas :** I am very glad to hear that

The Honourable Sir Basil Blackett : Their policy is a policy of temperance in the strict sense of the word temperance. I often observe, and the House will have observed to-day, that it is the extreme advocates of prohibition who are most intemperate in their speech. We had an example from Bombay to-day. The policy of the Government is and has been one of promoting temperance. It is objected that in the course of pursuance of that policy the Government are in enjoyment on behalf of the tax-payer of a very considerable revenue. Let me take the revenue point first in order to clear it out of the way. It is perfectly true that the receipts, including provincial receipts, from excise and from customs on alcoholic liquor have increased very considerably in recent years. But that is precisely because the policy of the Government has been one of maximum revenue and minimum consumption. I shall endeavour to show to the House that that policy has been a really successful one. Some statistics have been quoted to-day, but I am afraid I shall have to weary the House with some more. Now, one of the difficulties in regard to the statistics of consumption of alcohol is that there has been for the last half a century a continuous transfer from what is known as the outstill system to the system of Government distilleries, instill system is really the only other word that I can use, and there is not the least doubt that under old outstill system, though it was a system which was very useful in securing control at a time when means of communication were not as great as they are to-day, there is not the least doubt that under that system there were considerable lacunae in the figures of consumption of alcoholic liquor. There was more country spirit produced and consumed than the figures showed because the control was less perfect. Since the transfer to the distillery system the figures of consumption are very much nearer the actual facts and one would naturally expect that merely by inclusion in those statistics of a certain amount of consumption which was previously excluded there would be visible an increase in consumption. Now in the year 1883-84 the percentage of the total population of areas served by outstills was 53 per cent. It had been reduced by 1903-04 to 35 per cent, by 1912-13 to 7.49 per cent and is now only 2.74 per cent. The number of shops per 100,000 of the population has fallen between 1883-84 and 1903-04 by 30 per cent and to-day the number of shops per 100,000 of the population has been reduced to 6.77 as against a figure of 15 in 1903-04 and something over 20 in the year 1883-84. Now, let me come to the consumption. I am speaking of country spirit for the moment. The consumption of country spirit in 1883-84 was nearly 5 gallons per hundred of the population. In 1903 it was just over 4 gallons. It was the same in 1912. In 1924 it was 2.68 gallons. It has been almost exactly halved in the last 40 years. This consumption of 2.68 gallons per hundred of the population compares with the figure of 15.33 gallons in Ceylon, 30 gallons in England and Wales and 58 gallons in Scotland. The average consumption has fallen by 36 per cent in the last 12 years. The actual consumption in total figures in 1921 was 10,215,212 proof gallons. In 1923-24 it was 6,626,875 proof gallons. That is much less than two-thirds and approaches nearly one-half of the figure of 12 years before. Dr Datta fell into an error, I think, in giving the figures of imports of spirits, as those spirits include perfumed and denatured spirits. The figures of consumption or clearances of spirits are rather different.

**Dr S K Datta** Why are they shown under liquors? Are perfumed spirits liquors?

**The Honourable Sir Basil Blackett** That explanation will be given afterwards. The figures of the clearances of spirits are as follows

	Proof gallons
In 1912-13	1,161,320
In 1923-24	894,000

Wines, 102,488 reduced to 67,601 in 1923-24. Total, including ale and cider, 1,738,385 in 1912 and 1,246,232 in 1923, a reduction of about 28 per cent in the period. These, of course, are proof gallons. I maintain, therefore, that the statistics show that the policy of the Government has been very distinctly effective in securing a very remarkable reduction in the total quantity of alcoholic liquors either imported or country-made consumed in India. The fact that revenue has gone up is not, I think, really germane. It is only a proof of the success of our policy, which, I believe, is the only effective policy that you can pursue of attempting to get the maximum revenue from the minimum of consumption. The difficulty about increasing the revenue, which Sir Pishotamdas Thakurdas suggested might be a resort of some hard pressed Finance Member in the near future, is, first of all, that so far as our experience goes, generally speaking, the duties are already so high that there is considerable danger of illicit production, that to put them higher might very possibly actually decrease our total receipts from the revenue from alcohol and at the same time would almost certainly increase the total consumption in India owing to the inevitable increase in illicit distillation. One Honourable Member who comes from the Thana district tried in advance to parry the argument about illicit distillation. From what I have heard of the Thana district he ought, if he knows his constituency, to know a good deal about illicit distillation, because I am told that it is one of the parts of the Bombay Presidency where the difficulties caused by illicit distillation are very seriously felt. I do not think, therefore, that he ought to come here and say that the argument about illicit distillation is one which can be brushed aside. It is a very serious and difficult one.

Now, I have given the House some of the results of the policy of the Government of India in the last generation. I submit that those results are striking and that they are a complete answer to attacks on the policy of the Government if they take the form that the Government are engaged in encouraging the use of consumption of alcoholic liquors for purposes of their own, whether those purposes be financial or whether other charges, not made to-day, are brought against the Government in that connection. I maintain that the policy has been very really effective.

Now, I must come to the two amendments which are under discussion to-day. I should, however, perhaps begin with the original Resolution. With the exception of the first speaker no one has to-day, I think, supported the original Resolution wholeheartedly. I submit to this House that, however much we may desire to prevent altogether the use of alcohol for other than scientific and medical purposes, a policy of complete prohibition is entirely out of the question in present circumstances in India. I do

not think that really needs proof. The policy of the immediate introduction of prohibition is unthinkable and I do ask this House, taking a practical view of the question, not to commit itself to the original Resolution and to realise that in doing so it would be making a completely impracticable suggestion. I do not want to enter into controversial questions as to the extent to which the use of alcohol is prohibited by the religious tenets of various peoples. I cannot, however, resist quoting one of the results of my researches into Indian history. I am told that the Code of Manu did prohibit the use of alcoholic liquor by Brahmins. And in order to make the punishment fit the crime one of the punishments is that a Brahmin who drinks alcoholic liquor is to commit suicide by drinking molten lead. But this was his statement on the subject of alcohol generally.

“ There is no turpitude in drinking wine, but a virtuous abstinence will reap its reward ”

That represents the position of the Government in the matter to-day. It desires a virtuous abstinence and, as I have always been taught, there is no merit in abstaining when you are forced to do so. I believe that any attempt to have complete prohibition would not only be necessarily completely ineffective in India as it exists to-day but that it is contrary to the highest principles of ethics. Several American speakers have been quoted on the subject to-day, some of them said to be great men, but I think the following quotation will be agreed to be from a very great man. It is as follows:

“ Prohibition will work great injury to the cause of temperance. It is a species of intemperance within itself, for it goes beyond the bounds of reason in that it attempts to control a man's appetite by legislation and makes a crime out of things that are not crimes ”

That, Sir, was the view of Abraham Lincoln. I therefore assume that it is not necessary for me to argue further the impracticability of the original Resolution. What I have said has some bearing on both the amendments. Both these amendments ask that the policy of the Government of India should be a complete prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes.

Now what I have said will show that the Government hold that that policy is not one which ought to be adopted. I gather from the speeches that have been made that none of those who support it really believe that it is a policy which can be put into practical effect within this generation or probably within the next. But why, I ask, then should we commit ourselves now to a policy of ultimate prohibition? Have we really studied the subject enough to be sure that ultimate prohibition is desirable or necessary or will ultimately be practicable? This House is being asked to commit itself to a hypothetical statement as regards the policy to be pursued over the next half century.

**Khan Bahadur W M Hussanally** (Sind Muhammadan Rural) May I inquire from the Honourable Finance Member if the Bombay Government have not agreed to the report of the Committee appointed recently and have taken total prohibition as their goal? If so, is that policy different from that of the Government of India?

**The Honourable Sir Basil Blackett** The Government of India are not responsible for the policy of the Government of Bombay I am speaking to-day of the policy of the Government of India

**Mr A. Rangaswami Iyengar** (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) May I inquire if the policy of the Government of India is different from the policy of the Government of Bombay ?

**The Honourable Sir Basil Blackett** I think that I shall require considerable notice of that question The policy of the Government of India is the policy I am announcing to-day

**Mr Jamnadas M Mehta** Is it not obvious that it is different ?

**The Honourable Sir Basil Blackett** If it is obvious, it depends how quickly and accurately a man can reach a conclusion from a premise I do not know that the Government of Bombay fixed a limit of one or two centuries as the date on which they hoped to achieve it I am arguing to-day that this House should not commit itself to the statement that the ultimate goal of its policy will be complete prohibition without considering whether there is any real practical advantage in laying down such policy, or whether it has really examined fully the *pros* and *cons* of what will be desirable for another India—a self-governing India—fifty years hence The objections to complete prohibition will remain as stated by Mr Abraham Lincoln There will also, I think, still be the objection that the policy of prohibition must lead, unless the circumstances are extraordinarily favourable, to a great many very undesirable results We have had statements made about the effect on the public respect for law and order of prohibition in the United States It so happens I have at the moment a regular correspondence in the United States and I may perhaps repeat a story from a recent letter After chasing a very elusive and very successful bootlegger for a very considerable time the Federal Agents caught him on the shores of the ocean in the early hours of one morning and they were very pleased with their capture The bootlegger seemed to be quite amused and they said to him, “ You don’t seem to be worried about it Wait till you get to the court ” “ That is what I am waiting for I am bootlegger to the Sheriff and the Judge and will call them in evidence ”

Now I do not want to get off into the amusing side of this subject but I have quoted that story because it does show the extraordinary difficulty of a policy which involves disrespect for law among the class of citizens who normally are the upholders of law and order It has become a very serious menace to the whole fabric of law and order in certain parts of the United States It has led to corruption among the Federal Agents, a considerable amount of actual man-slaughter, and a general lowering of the standard of respect for law and order among the citizens I do not want to prophesy to-day what the ultimate results of prohibition in the United States may be Strong statements have been made on both sides That the law has effectively dealt with the evil of the saloons is I think granted on all sides, but it has led to the use of some very bad liquor, to a great increase in illicit distillation—a great increase in smuggling, and a very great increase in the expenditure of the United States on preventive work, accompanied by



a very large decrease in revenue And if I may again refer to the authority I have just quoted, the cost of wines and spirits, at any rate in some parts of the Eastern States and in New York, is now very little more than it is in England because what goes to the revenue in England goes to the bootlegger in the United States, and the amount required to pay the bootlegger's profit is about the same as the amount required in England to pay the revenue

Now it may be that the policy of prohibition will develop in a successful way in the United States over the course of the next ten years It may be that in about that period it will be regretfully decided that the experiment has not been a success It has been the experience of a good many countries which have introduced prohibition They have tried it in all good faith with every desire to make it effective and with the ideal in mind of preventing the evils of intemperance, and they have deliberately rejected it and come back to a form of the policy which is the policy of the Government of India of maximum revenue, maximum control and minimum consumption Let us assume, that within the next ten or fifteen years that is the experience of the United States Would it not be rather unwise of the Government of India at this moment to say that the ultimate goal is prohibition when a very big and very great experiment is in course of trial, and may quite within the grounds of probability be proved unsuccessful and have been given up long before the moment comes when anyone who has spoken on this subject in this House to-day believes that prohibition would be within measureable reach of enforcement in this country? I suggest, therefore, to the House that it would not be wise of the House to-day to commit itself to the statement that the policy should be to reach a goal of ultimate prohibition

Within the time at my disposal I cannot deal at all fully with the details of the two amendments which are before us I would point out that both of them involve a difficulty on which I do not desire to lay stress, but which has been mentioned by an interruption from the other benches, that it is not for the Government of India to give directions to the Provincial Governments as to what their action is to be in legislating in regard to a transferred subject I am inclined to agree that if a policy of local option or prohibition is going to be attempted by Local Governments with any very great vigour, the Government of India will not be able merely to look on One of the clear lessons of America's experiments in prohibition and in local option is that local option and State prohibition and local prohibition involve even greater difficulties than complete prohibition International boundaries were mentioned by one speaker The House must not forget that there are boundaries all over India between British India and the Indian States, and it is a problem which at the moment would seem almost insoluble how, if prohibition were to be introduced legally in a given province, it could be enforced with so many international boundaries between that province and neighbouring Indian States or States included within the area of the province Therefore I maintain that these detailed proposals included in both these amendments, involve a recommendation to the Government to take action which either constitutionally is not within their province, or which

needs to be very much more carefully considered before it is adopted as a practical proposition. Local option sounds attractive, but it is not a system which has been productive of great results. It has been found almost invariably to be a serious cause of disturbance to law and order and I am told that experiments in local option in the Punjab have led to an increase of illicit distillation which is causing the authorities very serious difficulties.

**Mr A Rangaswami Iyengar** It is due to repression.

**The Honourable Sir Basil Blackett** Repression,—my whole objection to the policy of local option and prohibition is that it is the exercise of the functions of the State to repress in a sphere where the functions of the State ought not to be extended.

Let me go back to my original point. The whole of this House is anxious to-day, I am sure, to express the view that the strictest control should be maintained by the Government and should be recommended, or whatever the right word is, within the constitutional functions of the Government of India, to Provincial Governments, and that every possible step should be taken to counteract any tendency to the immoderate use of alcohol in India. I maintain that that is the policy which the Government are already pursuing, and it is the policy, of course which is spoken of as being continued in the third amendment which is not before the House. I do not know whether it is possible at this late stage for another amendment which would meet the general view to be adopted, which would involve a recommendation, as I see it, to the Government to be very strict and careful in the exercise of its control over the use of spiritual, I mean spirituous liquor. I used the word *spiritual* by mistake, but it has been, I think, the history of all the religions that have dealt with this subject that the spirituous generally beats the spiritual. (Laughter.) It would recommend to the Government that it should examine the subject and see that every possible step is taken to secure effective control. I say the steps that are already being taken, so far as the Government of India are concerned, are the best that I know of, but the Government would naturally be anxious in view of a Resolution of that sort from the House, to re-examine the whole position and see whether, within the area within which it is directly responsible, any further steps can be taken, and such a Resolution would involve a recommendation to the Provincial Governments generally, which is, I gather, one of the objects with which this Resolution has been moved to-day. The Government cannot support either the Resolution or any of the amendments, and owing to the withdrawal of the particular amendment referred to, we are in the position, as things stand, of voting simply for the negative. That is a position which I quite understand the House desires to avoid, because we do desire to give positive proof of our anxiety to control the immoderate use of alcohol, but as things stand, the Government must necessarily oppose both the original Resolution and the amendments which are before the House, and I trust the House will see that this is the only practicable and statesmanlike course that can be taken in this matter. We cannot commit ourselves to the impossible proposition of the immediate introduction of prohibition, we should, I have submitted, be wiser not to commit ourselves to prohibition as the ultimate

goal when it is very likely that that goal may have been disavowed by its chief exponents of the present day long before India is ready to arrive at that goal. I trust the House will take a practical view of the problem before it to-day and will not, simply because of its desire, which we all share on both sides of the House to show its interest in the cause of temperance, take any intemperate step such as is suggested by those who are responsible for the motions to-day.

*An Honourable Member* I move that the question may now be put

*Mr President* The question is that the question be put

The motion was adopted

*Haji Wajhuddin* (Cities of the United Provinces Muhammadan Urban). Sir, from the speeches delivered to-day on the floor of this House I gather that the majority of my non-official friends are in favour of Mr. Kelkar's amendment. I therefore find no alternative but to accept it.

*Dr S K Datta* Sir I beg for leave to withdraw my amendment

The amendment was by leave of the Assembly, withdrawn.

*The Honourable Sir Basil Blackett* Sir in view of the short interval that has elapsed since I was last on my feet, I do not propose to inflict a concluding speech on this House at any length. I ask the House just once again to consider whether it would not be wiser of it to negative the original Resolution and withdraw the further amendment which now stands in Mr. Kelkar's name and thereby show that the unanimous view of this House is that all possible effective steps should be taken by the Government in co-operation with this House and should be recommended to the Provincial Governments with a view to the control of the drink evil.

*Mr President* The original question was

"This Assembly recommends to the Governor General in Council that legislation be undertaken prohibiting the import, manufacture, sale and use of all sorts of liquors in India and in the meantime he be pleased to direct the local administrations under his control and convey the opinion of this Assembly to all other Provincial Governments that they should take steps forthwith to grant to the local bodies within their jurisdiction the right to determine the number and location of liquor shops within their respective areas."

Since which the following amendment has been moved

"That for the original Resolution the following be substituted

"This Assembly recommends to the Governor General in Council that he be pleased to accept as the ultimate policy of the Government the prohibition of production, manufacture, sale and import of intoxicating liquors save for medicinal and scientific purposes. It further recommends that as the first step in carrying out this policy the Provincial Governments be directed immediately (1) to inaugurate a policy of vesting the power of fixing, by a system of local option, the location and number of shops selling intoxicating liquors in either local self governing bodies or Licensing Boards specially constituted for the purpose and elected on a popular franchise, and (2) to undertake necessary legislation in furtherance of that policy."

The question I have to put is that that amendment be made

The amended Resolution was adopted by 69 votes against 39.

*Tuesday, 15th September 1925*

## RESOLUTION *RE* SEPARATION OF RAILWAY ACCOUNTS AND AUDIT

**Mr G G Sim** (Financial Commissioner, Railways) Sir, I beg to move

“ That this Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways, a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway

- (a) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass, not to the Railway Board as such, but to the Financial Commissioner of Railways. On each railway system, for all ordinary purposes, the head of the accounting staff should be answerable to the Agent and should carry out his orders.
- (b) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an ‘ internal check ’, but the nature and extent of the scrutiny will be approximately the same in both cases.
- (c) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices ”

I move this Resolution, Sir, at the request of the Standing Committee of this House on Railway Finance. The proposals contained in this Resolution are intended to make a commencement in giving effect to one of the few remaining recommendations of the Acworth Committee that have not yet been put into force. These proposals are the necessary sequel and the inevitable corollary to the Resolution adopted by this House for the separation of the railway from the general finances. The question, Sir, was referred to during the discussion on the Budget debate last February and a promise was then given that before any action was taken in the matter it would be referred to the Standing Finance Committee on Railways. This was duly done and the proposals received the unanimous support of that Committee. The Committee, however, in view of a statement made by the Honourable the Finance Member, thought that an opportunity should be given to this House to discuss the question contained in the Resolution and that in addition to the demand for a supplementary grant which I propose to move later, a formal Resolution of this kind should also be put forward. A complete statement of the proposals and of the reasons for them will be found in the proceedings of the Standing Finance Committee for the 29th of June and for the 20th of July which have been in the hands of Honourable Members since the beginning of this Session. As these proposals are fully explained there and as the recommendation I am now making had the unanimous approval of the Committee I do not propose to enter into the matter at any great length as I assume that the House will endorse the recommendations of its Committee. The papers I have mentioned contain the relevant extracts from the report of the Acworth Committee, and I do not propose to weary the House by reading them in full. All

that I need refer to is their final recommendation in the matter. They said

“ We recommend that the Railway Department should be responsible for its own accounts. We do not exclude, of course such independent and separate audit as the Government of India may think it proper to make on the same principle that obtains in any commercial company, where the shareholders appoint an outside firm of accountants to check and report on the books which are kept by the servants of the directors the ordinary accounting staff ”

The House is aware that under the present arrangements the accounting staff on the railways under the Auditor General are not only responsible for audit but are responsible for the actual compilation of our accounts. They have therefore to undertake numerous duties which have nothing whatever to do with audit proper. For example they assist in the preparation of budget estimates, they maintain all the registers on which the grant of leave increments of pay and pension are based, they maintain all the detailed account registers both of receipts and of all classes of expenditure, they compile themselves our final accounts of receipts and expenditure. The result is therefore that on the one hand the spending authorities do not compile their own accounts, and on the other hand so far as accounts are concerned there is little or no true audit in the sense in which that word is used in ordinary commercial phraseology. What is called audit at present is merely an internal check, that is to say it is merely an examination by the accounting staff of the accounts which they themselves have compiled. The proposal now made is that all the accounts work should be done by the railway authorities themselves and that we should have an independent audit made by the Auditor General and his staff of the accounts so compiled and maintained by the railway authorities and of the transactions recorded therein.

not without cause—that they are not kept in sufficient touch with the progress of their expenditure to enable them to assume responsibility for it, that the accounts are actually compiled for them by a staff which is in no way subordinate to them, and that they receive the accounts some months after the expenditure has actually been incurred.

It is hardly necessary for me to say anything regarding the improvement in audit that will be effected by the proposals now before the House. As I have said the work of audit and accounts at present is closely intermingled. What is known as the audit and accounts staff perform numerous functions for the railway authorities for the present which are purely executive functions. At every stage they exercise an internal check which in every commercial office would be done by a staff employed under the control of the person managing the concern. They make a complete check and are responsible for the arithmetical accuracy of the figures, they examine the adequacy of the vouchers to support particular bills and are responsible for the observance of all rules of sanction. So long as the audit staff actively participate in the actual administration of the railways you cannot have a completely independent audit. An audit officer is supposed to be a critic of the completed work of others and he should be able to take an absolutely unprejudiced view of all the papers placed before him.

Under the proposals now before the House—proposals which are necessary if this House is to run the railways as a commercial concern—you will get rid of most of the disadvantages of the present system. The Railway Board and the Agents controlling their own system of accounts and their own accounts agency will be able to ensure that their accounts are maintained and compiled in a manner suitable to a commercial department and at the same time in a manner which will enable them to satisfy this House that they have discharged their responsibility for the proper application of the funds voted by the Assembly, they will be able to watch closely and control thoroughly the progress of expenditure, they will be able to obtain the advice and assistance, which at present they claim from another department, from a staff under their own control.

It is not intended that the accounting officer in the railways should be a mere critic of the railway administration. As head of the accounting department of a railway he will be responsible that the accounts are properly compiled, and compiled in a manner that will enable the agent and the other officers to discharge their obligations. At the same time there will be certain functions that the accounting staff will have to perform that might bring them into conflict with the Agent. The accounts officers will be responsible to the Financial Commissioner for seeing that the orders issued from headquarters are properly observed. In some of those cases, there may be a difference of opinion between the Agent and the accounts officers as to what the intentions of the higher authorities are, and for such circumstances we have provided that, while the accounts officer has to take the orders of the Agent, he will take written orders which will explain why the Agent disagrees with the accounts officer and all the papers relating to any such disagreement will be immediately forwarded to the Financial Commissioner for Railways for decision. It is impossible for the Financial Commissioner for Railways to carry out his present responsibilities

unless he has staff on every railway system responsible to him for seeing that the orders are carried out. There is a considerable amount of misapprehension regarding the functions at present performed by the accounts staff on railways. The great bulk of the work which they at present do is to see that the executive orders of the Railway Board itself are given effect to, and in particular, that the orders issued from the financial side of the office are observed. I would refer Honourable Members to paragraph 5 of the Memorandum which is given in the proceedings of the Standing Finance Committee for Railways on the 29th June. It is pointed out there that

“The fundamental principles of audit are very few, and the minuteness of the present check over the transactions with the Railway Department, against which the Acworth Committee made complaints, is mainly due to the minuteness of the detailed rules propounded by the superior railway authorities. It is essential that the necessity and the fruitfulness of such rules should be tested and determined by the financial authorities with the Railway Board and the staff which are working under them. To enable the Financial Commissioner on the Railway Board to discharge his duties efficiently, he must have on each railway system a staff which will be responsible to him for seeing that orders from headquarters are obeyed, and for recommending changes in the rules and instructions, whenever these are found to be giving rise to unnecessary trouble or not to be producing the effect for which they are intended.”

There are some minor matters, Sir, on which misapprehensions appear to exist in the minds of some Honourable Members judging from the nature of the amendments which have been put down in connection with this Resolution. Most of these amendments are for the purpose of securing that the accounting officers shall not in any way be prejudiced in carrying out their duty of enforcing orders issued by the Financial Commissioner by any unnecessary subservience to the Agent. I should like to explain clearly that it is the intention of the Government that the officers in the accounting department should have their prospects, promotions, reversions, etc., determined not by the Agent but by the Financial Commissioner.

**Diwan Bahadur T. Rangachariar** Their appointments?

**Mr G. G. Sim** Appointments too, certainly.

**Mr A. Rangaswami Iyengar** What about the Financial Commissioner himself?

**Mr G. G. Sim** The Financial Commissioner himself, Sir, would as usual reply to the queries put and the Resolutions moved in this Assembly, and I think that this Assembly have so far shown no reluctance to keep him in order. (Laughter)

Sir, I consider that the proposals now put forward will secure the main objects which the Acworth Committee had in view, that is to say, that the accounts of our railways shall be so maintained, that the superior authorities should have complete information through their own staff as to what they are actually doing and how their expenditure is progressing, of judging whether that expenditure is advisable or not, and of enabling them to discharge their responsibility of showing that the money voted by this House has not been wasted. At the same time, it will secure what is equally essential, and what we have not had up to now, an independent audit of our railway receipts and railway expenditure.

As regards the expenditure required for this experiment, the House will observe that the proposals for the expenditure were put forward by the Auditor General, and that the Finance Committee agreed to these proposals after hearing what the Auditor General himself had to say on the subject. At the same time they asked that, before this system is extended to other railways, a report should be submitted to them to show whether economies could not be effected, whether in the accounting staff under the railways or in the audit staff maintained by the Auditor General.

I can only assure the House that it is my personal conviction that the expenditure of these 3 lakhs should pay for itself over and over again. It is very difficult, almost impossible in many cases under the present arrangements, to enforce responsibility for expenditure unless you compel the spending authorities to be responsible for the expenditure up to the time that the expenditure is actually embodied in the accounts. This proposal will also enable the Financial Commissioner for Railways to intervene more swiftly and more effectively than he can do at the present moment, when reports of the neglect of order reach him after some time and from a staff over which he has no control. At the same time, you will have an effective check, which you had not before, in the way of an independent audit for railway transactions. Sir, I move the Resolution that stands in my name.

**Mr N C Kelkar** (Bombay Central Division Non-Muhammadan)  
Sir, I move the amendment that stands in my name, namely

“ That consideration of this Resolution be adjourned till the next Delhi Session of the Assembly ”

I shall briefly state the reasons why I have moved this amendment. In the first place, I should like at once to assure my Honourable friend opposite that the object of my amendment is not to obstruct or delay in any way the object which the Honourable the Mover has in view. My only object in moving this amendment is to get some time to raise a discussion in the Assembly upon the merits of the new proposal so that all of us may be in a better position to give an intelligent vote. I am quite aware, Sir, that the Finance Committee, which is elected by ourselves, has in a way passed this proposal.

**Mr G G Sim** In a way ? Certainly not. Unanimously.

**Mr N C Kelkar** The Finance Committee has passed the proposal. My qualification comes in here. As I understand it, certain members of the Finance Committee have passed the proposal with certain reservations.

**Mr G G Sim** Who ?

**Mr N C Kelkar** I am coming to it presently. I may at once name one member of the Committee, Mr Neogy. He was not present. I state the facts as I know them without keeping back any of the facts. Mr Neogy was not present at the meeting at which this scheme was passed. I am not going to state what actually took place at the meeting of the Standing Finance Committee. I will merely state what was the general opinion of the members who were present in the Finance Committee, and therefore it is pertinent for me to take into account what my friend Mr Neogy t



about this matter Now, with regard to Mr Neogy, I will say this, that he had asked for certain papers in order to enable him to give an intelligent vote on the matter and to have a thorough discussion of the *pros* and *cons* of the scheme And I regret to say that, for reasons best known to the Financial Commissioner, these particular papers were refused to him Here is a statement which appeared in the public press about the demand made by Mr Neogy and the refusal accorded to him and I will read it practically in Mr Neogy's own words

“ It seems that this question of an alternative escaped the attention of the committee I, therefore, requested the railway authorities to supply me with a copy of Mr Jukes's note referred to in Mr Mitra's report and in reply Mr Sim has refused to supply me with this on the ground that it is not a practice to supply to the Members of the Assembly or of the Railway Finance Committee copies of ‘ notes recorded on Government files ’ This description of the notes is wholly incorrect as you will find on reference to para 5 of Mr Mitra's report, that the Auditor General and Mr Jukes submitted printed notes to the Railway Board I feel that the attitude taken up by Mr Sim in this matter raises a question of principle and that we will be quite within our rights if we insist on the production of the printed notes which are referred to in the Government scheme itself, and cannot conceivably be of a confidential character, before we proceed to discuss the Resolution on its merits ”

Now, with regard to the production of this paper, I will at once say this, Sir I have not seen the note nor has Mr Neogy nor has any members of the Finance Committee I do not know what it might contain Perhaps it may be a dark horse altogether But the very fact that a certain paper has been asked for and has been refused has naturally created a feeling of suspicion, and Mr Sim has only himself to thank that that suspicion has been created He has to take the consequences of his own action, we are not to blame for it There is another Member, Mr Rama Aiyangar He is here and of course he will speak for himself But so far as I have been able to gather from a perusal of the report of the Standing Finance Committee for Railways, I see this, that he has got certain doubts as to the working of the scheme Thus for instance, he wants to know what is to happen about periodical reports or occasional reports about irregularities discovered in the course of audit To whom are irregularities to be submitted for scrutiny, to the Financial Commissioner or the Auditor General, etc ? That I think does affect the success of the scheme, and therefore I take it that, though Mr Rama Aiyangar has not dissented in so many words from the scheme, he has got some mental reservations, which make it necessary for us, whose vote is now called for, to go into the question and to get our minds clear as to what Mr Rama Aiyangar's doubt about this is With regard to the production of papers I will say this at once Mr Sim need not of course go out of his way to tell us exactly what papers we should read or call for He is not our trainer or coach or teacher But he is certainly the custodian of certain papers which we have the right to demand, and I think that is the principal question which can be raised here and we should be perfectly justified, in adjourning the final disposal of the scheme, if this House holds, as I think it will hold, that we do possess a legitimate right to call for certain papers which are printed and are on Government files I do not quite see the point of the paper being on a Government file being a reason for a refusal to produce it It is certainly not a secret or confidential document pertaining to the affairs of dark and high chancelleries of nations Certainly it is not a political document nor do I wish to import any political feeling—I at once assure my Honourable friend—into the discussion of the present matter I am

trying, as far as possible, to discuss the thing on its own merits, and I say we have a legitimate right to call for all papers to which our attention is called in order that we may be able to give an intelligent vote upon any new schemes that are put before us

Then again, Sir, I do not pretend that I am a person well versed in these accounts or audit matters. But I cannot help taking cognisance of public criticisms which appear to be well-informed criticisms. I cannot take the one-sided version of the Benches opposite in a case like this. I have got to take cognisance of public criticisms, and, as far as I have seen these criticisms, I have come to know that many well-informed persons regard this new scheme as a risky scheme and involving extravagance. And I think the other side will have completely to prove that it is not risky and does not involve extravagance.

Now this experiment that is going to be made is only one experiment on two combined lines. It is going to cost three lakhs. And what about other lines that come on our hands gradually. I think that the total expenditure on this extended experiment would in all come to about 14 or 15 lakhs annually and certainly that is not such a small sum that we can totally disregard it. The real question is not what the proposed experiment if sanctioned would cost. The cost is a great factor, but it is not the only factor. The financial estimate of the experiment may be perfectly correct. We are not questioning that. We are not questioning the estimate that it will cost three lakhs to put on its feet the particular scheme that is now being proposed, but the real question is whether the experiment is really needed or whether the principle underlying the experiment is a sound one. The new proposal is to make the Railway Department self-contained and self-sufficient as far as possible with its own accounting and its own audit. Unfortunately, the statutory duty of an independent audit cannot be obviated by the desire of the Railway Department for independence.

**Mr President** Is the Honourable Member going into the merits of the Resolution or is he merely confining himself to the motion for adjournment?

**Mr N C Kelkar** My doubts as to the merits is a reason for adjournment. Unfortunately, the statutory duty cannot be obviated. What the Department however says in effect is this: "We shall make our own arrangements or keep our own accounts. We do not want any body's interference in deciding in what form or fashion we may keep them. A kind of pre-audit may be necessary but we insist that it shall be done by the officers in the department itself and subordinate only to the head of the department. And the need of independent control will be satisfied by the existence of the general supervision of the Financial Commissioner, who will represent the Finance Member. If beyond this you want to discharge the statutory obligation of an independent audit, let that be in the nature of a test and percentage audit and under the control of the Chief Auditor. You propose the machinery you want for this purpose, and we shall pay the expenses." All this looks fair on the surface but the fact remains that the Railway Department does object to pre-audit by an independent agency and that has got to be explained. It is said that railway accounts are very complicated and that the needs of the Auditor General do not coincide with the needs of the Railway Department.

I believe that the difficulty is overstated. Surely it should be possible for the Audit Department to sit down with the Railway Department and discuss and agree upon the most suitable forms required for keeping railway accounts. The requirements of this agreement cannot be got over even in view of the fact that the independent statutory audit will be a test and percentage audit only. On the other hand, it is not shown how the possible evils of only a departmental pre audit will be removed and nobody can deny that these evils exist. We have only to bring before our mind's eye the conflict between the exalted officer, namely the Agent of the Railway, and the accountant-cum-auditor subordinate to him, and we can at once imagine the result.

Do you in this world expect a sense of stern independence from men whose prospects are in the hollow of your hand? The Railway Department is one in which, like the Military Department, huge sums of money come into operation and there is infinite scope for irregularities and wastefulness and worse.

**Mr President** I am afraid the Honourable Member is going too much into the merits of the question. His motion is for adjourning the discussion of this Resolution and if he confines himself strictly to it, the business of the House will be greatly facilitated. Let us first put out of the way the adjournment motion and then we shall go into the merits.

**Mr N C Kelkar** I will restrict myself to it if I am allowed to put that motion for adjournment immediately.

**Mr President** The Honourable Member has put it already.

**Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber Indian Commerce) I want to speak in order that the adjournment motion may not be carried.

**Mr President** Sir Purshotamdas Thakurdas.

**Sir Purshotamdas Thakurdas** Sir, having been a member of the Committee and having been present at the meeting where this was discussed, I feel that I ought to put before the House the reasons which strike me why this motion should not be carried. The Railway Finance Committee, Sir, consists, if I mistake not, of about 11 or 12 members. At the meeting that was held in Bombay, excluding the Chairman Mr Sim, 8 non-official members were present, and as Honourable Members will be able to see from the proceedings of the meeting—Vol II, No 1—the Resolution on this subject was carried there unanimously. There are a few minor details on record as to the directions in which members present wanted some more information or desired certain safeguards to be introduced. I feel, Sir, that if and when a report comes before the Assembly with such a unanimous vote of the Committee to which the work is in the first instance entrusted, it would be a great pity if such a report is to be delayed from Session to Session. The House is now, to-day, I think, in a position to discuss this question on its own merits and either accept it or turn it down or modify it. But, if it went on delaying, I feel that it would be a bad precedent. I am sorry to have to speak against my Honourable friend Mr Kelkar's amendment in this connection, but, if I may say so, I have heard nothing in his speech till now which has made me feel in the slightest degree that he

has made out a case for consideration of this matter being postponed to the Delhi Session. If my Honourable friend feels that he will have more leisure in Delhi than we have to day or will have within the next two days, that is another matter. But the Railway Department have thought over the subject and presented a scheme, and I may say that this is not the first time when this scheme was put before the Railway Finance Committee. It was put before them first and was turned down by them, subsequently it has been modified and brought up again, and it is high time that we did not delay it any further. I wish, therefore, Sir, to recommend that this amendment of my friend should not be carried.

**Mr K C Neogy** (Dacca Division Non-Muhammadan Rural) Sir, I feel that a word of personal explanation is due from me, because it has been pointed out by Mr Kelkar that I was not present at the meeting of the Standing Finance Committee for Railways at which this question was discussed. When this House elects Members to any Committee, I think it has the right to demand an explanation from any Member if he does not discharge his duties properly.

**Sir Purshotamdas Thakurdas** He was engaged elsewhere.

**Mr K C Neogy** Sir, when the Standing Finance Committee for Railways met at Bombay I had already accepted an invitation from the Legislative Department to be present at a meeting of a very important Select Committee to be held in Simla. It was pointed out to me in a letter from the Legislative Department that, as there was nobody else who was authorised to take the Chair at that meeting it was essential that I should be present. It was in these circumstances that, when I received the notice from the Railway Department informing me of the date of the meeting of the Standing Finance Committee, I had to write back and say that, as I had already accepted an engagement previous to the receipt of that notice, I could not be present at Bombay. However, Sir, I do not think that I have any right to expect either the Railway Department or my colleagues on that Committee to defer consideration of this matter because I was not present. But, Sir I would refer to one small matter, and that is this. When this matter came up for discussion—

either by my Honourable friend Sir Purshotamdas Thakurdas, or any other member of that Committee, to the Auditor General, or the Accountant General of Railways or to any other audit officer connected with the State Railways, to explain the charges that are levelled against the present system

**Sir Purshotamdas Thakurdas** I thought we were going to deal with that on the merits of the proposition before us

**Mr. K. C. Neogy** . My point is, that so far your case has been that the present system has failed, that is to say, either that the present rules are at fault or that there is something wrong with the people who are responsible for the working of the present system which is producing the evil results that the railways complain of Now, Sir, I should have expected from a man with the sense of fairness of Sir Purshotamdas Thakurdas (*Mr. Devaki Prasad Sinha* "Question") I am not so uncharitable as my Honourable friend from Bihar I have the fullest confidence in the sense of fairness of my Honourable friend Sir Purshotamdas Thakurdas and what surprises me is this that in the Acworth Committee they accepted a statement, an *ex parte* statement of the railway authorities in regard to the unsuitability of the present arrangements, without giving any opportunity to the Auditor General or to the Accountant General, Railways, to explain the charge that is levelled against them, and that is the reason why I am in favour of this postponement

**The Honourable Sir Basil Blackett** (Finance Member) The Auditor General agrees to this proposal

*An Honourable Member* He did not in the beginning

**The Honourable Sir Basil Blackett** . That is quite true

**Mr K C Neogy** I should not like to enter into that question just now because I may blurt out something which my Honourable friend may not like altogether I have had an opportunity of consulting very many members of the Audit and Accounts Service from the highest to the lowest

**The Honourable Sir Basil Blackett** I was speaking of the highest and not of disagreements of his juniors

**Mr K C Neogy** I come to the highest I and another friend of mine, who is not here just now, Mr Rama Aiyangar, (*An Honourable Member* "He is here") in our capacity as Members of this Assembly had consulted the Auditor General in his capacity as the Auditor General of India in regard to these questions, and his opinion as given to both of us was quite definite on the point He thought that the present system could be so adjusted as to meet all the objections raised

**Mr President** The Honourable Member is going into the merits of this question He should confine his remarks to the motion before the House

**Mr K C Neogy** My point is that the Auditor General should be examined in this matter by either the Standing Finance Committee or the Public Accounts Committee or by any other Committee that this House may appoint before

**Mr President** . The Honourable Member has not put down any motion for that purpose

**Mr K C. Neogy** . What I say is this that we want to utilise the time that will be available, if Mr Kelkar's motion is accepted, for the purpose of ascertaining opinion in this matter from the authorities I have mentioned, and I think, Sir, I am perfectly in order in making a reference to that point

Now, Sir, I have not heard my Honourable friend Sir Purshotamdas say that this experiment, which I may remind him is described as an experiment in the motion itself, is so very urgent that the heavens will fall if we do not pass this motion to-day. Sir, I again revert to that point which I was dealing with when I was interrupted by the Honourable the Finance Member, because I think it is very essential that you should not adopt any new-fangled scheme on the *ex parte* statement of the railway authorities, but that you should have the considered opinion of the Auditor General—the Acting Auditor General—and the Accountant General for Railways, as to whether it is not possible to bring about the necessary reforms without changing the whole basis of the present system. Sir Purshotamdas Thakurdas certainly is not in a position to assure me that he has considered the point of view of these authorities either in the Acworth Committee or in the Standing Finance Committee. He has merely accepted as gospel what Mr Sim put before him in the note of Mr Mitra and other papers. My difficulty is this. I am, I may confess, a little slow-witted as compared with my Honourable friend Sir Purshotamdas Thakurdas, and I want a little more time, and certainly some more materials, before I can pledge my support to this proposition. My Honourable friend Mr Kelkar has referred to the correspondence that I had with the Honourable the Financial Commissioner with regard to certain notes. Well, Sir, I never expected the high and mighty officials of Government to oblige a humble Member like myself with the papers that I wanted, but I very much suspect that the papers, if produced, would go against their case. And how can you expect me to support this proposition in such a frame of mind, until and unless you produce those papers and convince me that the papers contain nothing against your case? Sir, I have no intention of taking up any more time of the House on this motion, but I think I have reserved to myself the right of dealing with the merits of the proposition if this motion fails.

**Mr G G Sim** Sir, I hope that the House will not for a moment consider the motion which has been put forward. This proposal is not a new proposal. It is a proposal which had been before this House for the last five years, it is five years since it was put forward by the Acworth Committee. It is more than a year since this House agreed to carry into effect the main proposal of the Acworth Committee for the separation of the railway finance from the general finances of the country, and this is merely a consequential result of that Resolution. It is more than three months since all the papers were placed before the Standing Finance Committee and fully discussed with them, and they unanimously agreed to the proposals. The only argument that has been put forward to-day for the postponement of this discussion is that Mr Neogy has asked for certain papers which are referred to in the note of an officer, Mr Mitra, who was deputed to work out these proposals. That note, I may explain to Mr Neogy, is a note on a Secretariat file.

**Mr K C. Neogy :** It is a printed note submitted to the Railway Board

**Mr G G Sim** It is a note on the Secretariat file

**Mr K C Neogy** Every note is on the Secretariat file

**Mr G G Sim** It is a note on a Secretariat file and such notes are never put forward as a public document. The papers which I have placed before the Standing Finance Committee contain a complete statement of the views of the railway authorities, the Finance Department and the Auditor General, and there is no point on which either Mr Kelkar or Mr Neogy or any other Member of this House wishes to have information that my colleagues and I are not prepared to answer

**Mr President** The question is

“ That the consideration of the Resolution be adjourned till the next Delhi Session of the Assembly ”

The motion was negatived by 59 votes against 38

**Mr C B Chartres** (Associated Chambers of Commerce Nominated Non-Official) Before I apply myself to the general Resolution I have first to ask myself if the present position is satisfactory. I think the Acworth Committee gave us to understand that it was not and I think that the organisation, as one knows it from a business point of view, is not such that we can expect the very best results from it when it is compared with up to date business organisations on a similar scale. There is one very important analogy which one can draw between the organisation of the railways in India and a large commercial undertaking. I refer to the United States Steel Corporation of America. That is a public company with a total capital including ordinary preference and debentures of a rather higher sum than the total capital of all the State Railways in India and it covers a vast amount of ground with huge works in different parts of the country in a way very similar to the railway system in India. Consequently the analogy is very apt. That organisation in America does not have a central account and audit system as prevails here. It delegates very large powers to all its works in different parts of America and not only is the audit separate from the accounts service but it has such a very correct costing system that by the tenth of each month they have in the central office of that organisation a complete record of the actual costs for the previous month of the whole of the works all over America. Now, Sir, if you compare that state of affairs with what happens in India to-day on the railways and their workshops you will find an enormous difference. So long ago as five years the Indian Stores Purchase Committee complained that they could not get an accurate figure of costs from any of the Government workshops and I believe that is still the position to-day. Can the people who oppose this Resolution say that this is a satisfactory state of affairs? Personally it seems to me a very serious matter indeed and in my opinion the organisation now proposed in this Resolution will enable the local accountants to make very much better arrangements for the whole of the accounting work of the railway than is now the case and I hope that the experiment will so succeed on the East Indian Railway that it will be extended throughout India at

a very early date. The question of the cost of this experiment, I am quite sure, is a very small one because the leakage and the faulty allocation of charges that must be going on at the present moment will probably amount to very much more than the small extra charge entailed by the system now proposed. I do not know what any commercial undertaking would consider if it had to wait as Mr. Sim has told us the railways wait for several months before they can find out the cost of any part of the work done by them. The whole tendency of modern commercial concerns is to perfect their accounting departments and ensure very accurate costing. Now, my experience has been that auditors are not the best agency for instituting an accurate costing system. The man who is in the best position to prepare commercial cost accounts is one with experience of the commercial side of the business, and then the auditor comes along to tell him if he has included everything in his costs that was necessary. The cost accountant is a specialist who will arrange the accounts of an undertaking and get them out to show to the best advantage what the undertaking is really costing and from my own knowledge of the railway accounts as they stand at present I say definitely that this cannot be done in a satisfactory manner. I think that the organisation of audit and accounts now proposed will enable a vast improvement to be made in the direction of more accurate accounting and I therefore support the Resolution very strongly indeed.

Mr. A. Rangaswami Iyengar (Tanjore *cum* Trichinopoly Non-Muhammadan Rural) Sir, I desire to point out

4 P.M.

only a few difficulties that are bound to arise by the acceptance of the Resolution now before the House. I subscribe readily to the proposition that in every administration, whether public or private, audit should be separated from accounts and I certainly would have subscribed to this Resolution except for the fact that the principle upon which it is based violates the fundamental position that we the Assembly and the Government of India occupy in regard to railway revenue and railway expenditure. I find, Sir, in the note on the question of the improvement of audit of railway expenditure, the later note as I take it, of Sir Frederick Gauntlett on this question,—first paragraph says this

“The primary function of audit in its application to the accounts of railway transactions is to safeguard, firstly, the responsibilities of the Secretary of State under the Government of India Act, and, secondly, the rights of the people of India to receive from the Railway Board the sums due to the Government of India under its convention with the Railway Board when it was agreed to separate railway finance.”

The House will recollect, Sir, that when the separation of railway from general finance was effected this Assembly made it perfectly clear that it did not in any sense relinquish the fullest control which it possessed over the accounts as well as the audit of railway expenditure and the grants made to Railways by this House. Therefore, Sir, if the audit of the Auditor General is to be restricted only to the question as to the rights of the people of India to receive from the Railway Board the sums due to the Government of India under its convention with the Railway Board the sole work of the Auditor is confined not to the regular audit of receipts and expenditure in the railways concerned, but only to the question as to whether the balance sheet of each of these railways is properly prepared, whether the profits are properly realised and



whether the sleeping partner, as the Government is called, has secured its proper share of the profits. I say, Sir, however it may be in a contract between the railway companies and the Government, the position, so far as the State Railways are concerned, is perfectly clear,—that this House has the right and the duty to sanction every expenditure and has also the right to scrutinise the revenue received from the railways of this country. Therefore, Sir, in considering the question whether the Auditor General should exercise merely the powers of an outside auditor in respect of the balance-sheet on the revenue and expenditure of State Railways, we should not, merely because we have entered into a convention for the separation of railway from general finance, leave the railways free to carry on their own accounts and to have their own internal audit. What is the position in this respect is by no means clear from the Resolution now before us. On the other hand, clause (b) of the Resolution of the Honourable Mr Sim says —

“ The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State worked railways by the accounts and audit staff under the Auditor General ”

Therefore, Sir, it is not merely the keeping of the accounts of the railways but the inside audit, what is called the internal check, the work done by the chief auditors of these railways, that is left free in the hands of Railway Administrations. Sir, when the Public Accounts Committee was dealing with the accounts of the railways, a proposal was put before the Public Accounts Committee in regard to the necessity for making the chief auditors who maintain and pre-audit the accounts of the Company-worked Railways independent of the administrative heads of the Railways, so that they may not be in a difficulty in so far as scrutiny of the expenditure is concerned. As a matter of fact, Sir, the matter was taken up by the Public Accounts Committee in 1921-22 when the Auditor General drew the attention of the Committee to the fact that most of the irregularities are found on State Railways, from which he inferred that as the auditor was not independent of the agent in companies' lines, fewer irregularities were brought to light. After discussion the Committee, while not prepared to express a definite opinion in the matter, desired it to be stated that the question of the auditor being independent of the agent was one that deserved consideration. Therefore, Sir, the Railway Board as well as the Finance Department pursued this matter further and there was a memorandum placed before the Public Accounts Committee this year to the effect that, however desirable it might be to make the chief auditors independent of the Agent, we were not able to insist upon this being effected thoroughly satisfactorily so long as the existing contracts with the private companies continued. The result is that so far as the audit, internal check as it is called, in the company lines is concerned, we are still in a very unsatisfactory position.

Now, Sir, let us see what would be the position in regard to the State lines if the Resolution of the Honourable Mr Sim was carried? Sir, we have been told that Mr Sim occupies a dual position. In one sense he is supposed to be independent of the Railway Board, he is supposed to be the watch dog of the Finance Department, as he is often called. He is supposed to represent the Finance Member. At the same time, he is a Member of the Railway Board. He is the financial adviser

of the Railway Board and therefore to that extent he participates in every act of the Railway Board. He answers questions relating to railway administration in this House. He defends the Railway Board here in every respect and he is identified with the programme and policy of the Railway Board in this House. Therefore, so far as Mr Sim is concerned, he is not in that position of independence which we very much want the chief auditors in private company lines to be in. He does not possess that independence notwithstanding the fact that in certain matters he is under the Finance Member and he can always go to the Finance Member by way of protesting against the action of the Departments concerned, and probably he may find the Finance Department supporting him. But, Sir, however capable Mr Sim may be to fill this dual position of Jekyll and Hyde, it may not be that Mr Sim's successor will occupy the same position. He will then either revert to the position of being a thoroughly independent man, in which case we may gain, or he will be a thoroughly subservient man, a man who is the handmaid of the Railway Board. (Loud laughter.) Well, it does happen very often that a maidservant's duties are done by a man. Therefore, Sir, we cannot, merely because of the fact that Mr Sim is able to take on his broad shoulders all these functions, found any principle or any programme or policy thereupon.

Then, Sir, the other question is the question of internal audit. I say, Sir, that under the Statute, the Auditor General has the fullest powers of prescribing any form of accounts and any form of internal audit or check of accounts. Under the rules framed by the Secretary of State, the Auditor General has the power, if he chooses or if he thinks it necessary, to audit the whole of the accounts,—to pre-audit as well as to post-audit. That power cannot be circumscribed, and it would be most inadvisable to circumscribe the Auditor General's powers by any Resolution we may pass to-day. Therefore, Sir, I consider that in this matter, so far as the provision of this check is concerned, it is not merely the Railway Standing Finance Committee that has to be consulted, it is also, I take it, the General Finance Committee, and also if possible, the Public Accounts Committee. I say so, Sir, because I think that the audit and the scrutiny of expenditure in the Railway Department is as much a matter of concern to the general tax-payer as the audit and scrutiny of expenditure in other civil departments under the Central Government. So far as that is concerned, Sir, I think the General Standing Finance Committee had a right to be consulted, and the Government had no business to base their proposals merely on the fact that the Standing Finance Committee on Railways has recommended this.

Then, Sir, the present state of the accounts of the Government of India and the manner in which they are presented to this House has been a matter of much investigation in the Finance Department. It is more than a year ago that the Auditor General was asked to frame proposals with a view to improve the system of accounts by which the accounts could be presented to this House in such a way that the scrutiny of this House might be more real and the report of the Auditor General more interesting and more useful to this House than it has been so far. Such a report has been made and in that connection certain proposals have been made in regard to the central revenues. I say, Sir, we must

be in a position to examine also from this point of view railway expenditure as well as revenues, and therefore it will not do for us to vote for this Resolution blindly. I am not, Sir, against making any experiment in regard to finding out which is the best system by which this audit of expenditure on railways could be scrutinised, internally as well as externally, but I say, Sir, if the experiment has got to be made, it may be made and the matter may be reported to the committees duly, but I object to the Government asking this House to accept the principles embodied in this Resolution altogether and then merely to wait for the results of the experiment that will be carried on in one railway after another. We know what will happen. This thing will go on and the expenditure will mount up and we will be asked to take it up in one railway after another. They have started it already on the East Indian Railway and there are proposals to extend it to the Great Indian Peninsula Railway. I say, Sir, that the whole question of the principles involved in this Resolution is a matter for this House as a whole when dealing with railway expenditure in the same way as it deals with general expenditure, and I submit, Sir, nothing will be lost by adjourning this and having this matter dealt with in the Delhi Session fully.

**Mr President** Order, order, the Honourable Member knows that the adjournment motion has been lost.

**Mr A Rangaswami Iyengar** Sir, I know that that motion has been lost. I am making my observations with a view to induce the Government to wait for some time more—I know that the adjournment motion cannot again be reintroduced in this House. I am therefore appealing to the Government to see that they do not commit this House to the principle, although they may be permitted to carry out this experiment. I think I am making a perfectly reasonable proposal and I feel therefore that, having regard to the very large issues of finance, audit and accounts that are involved, the Government should readily assent to the proposal that I am now making.

**The Honourable Sir Basil Blackett** Sir, I am very anxious to carry the House with me and with the Government in this improvement in our financial system. I am very anxious that the House should not feel in any way that it has been rushed or that this matter has been insufficiently examined. I agree with almost every word that was said by Mr Rangaswami Iyengar in regard to the principles of the proposed Resolution, but what I could not understand was why he drew exactly the opposite conclusions to those which I have tried to draw from the principles of the Resolution. The great merit of this change, if it can be successfully introduced—and remember we are still only experimenting with the introduction—the great merit to my mind is that it does give you an absolutely independent audit. It does not for a moment take away anything from the existing powers of the Auditor General or the powers given to him under the Statute. On the other hand it gives him very much better opportunities of exercising them effectively. That is the first principle on which this reform is founded.

The second principle is that you will get much better control over expenditure within the department if you have officers within that department who are themselves responsible up to a point for the accounts. We are not proposing to make the Railway Department responsible for their

accounts, we are proposing to make the Financial Commissioner with a staff under him—that staff being responsible ultimately to the Finance Department—responsible for the accounts of the railways. The result of that will, I think, almost necessarily be that you will have both your accounts kept better and your audit better carried out. Mr Rangaswami Iyengar objected that it was not for the Finance Department but for the Auditor General to determine the form of accounts. I entirely agree and that is one of the proposals which is here involved, the form of accounts will remain under the charge of the Auditor General. That is one of his statutory functions.

**Mr A Rangaswami Iyengar** And the methods of audit

**The Honourable Sir Basil Blackett** The methods of audit will be entirely in the hands of the Auditor General, he will not in any way be influenced by the difficulties which he sometimes finds at present of combining the work that he likes to do as Auditor General with the work that he has to do as Accountant General. In his capacity as Accountant General he is not entirely independent, in his capacity as Auditor General he is absolutely independent, and the existence of those account functions has in my view to some extent detracted from the completeness of his independence. Under our new proposals that independence will be absolutely complete and he will be able to supplement the energetic action of this House in keeping my friend Mr Sim in order.

Now I am very anxious that the House should not feel that it is being pushed in a direction in which it has not thoroughly explored the ground. I would like to point out that it is exactly for that reason that we have not to-day simply brought forward the supplementary estimate.

If the supplementary estimate had been brought forward, as it stood, I believe that we should probably have had a very short discussion and money would have been voted, and the House would not have been in a good position, as it is now, to know what we are doing. The reason why this Resolution is brought forward is because the Standing Finance Committee for Railways specifically asked that this course should be taken, they specifically requested that this should be done, and they did this, in view of the statement made by me in the March Session that before we finally committed ourselves to the policy of separation of accounts from audit, full opportunity would be given to this House to examine the whole situation. We are not finally committing ourselves at the present moment to separation of accounts from audit. I have been very anxious in this matter that we should proceed by experiment, because there is a great deal to be learnt by experiment, before we can arrive at definite conclusions. In this case, this is also an experimental measure, but the Resolution is brought forward, because it does certainly commit the Government to going ahead with experiments in this particular direction, and if successful, no doubt continuing in that direction.

Now, Sir, I have only one more thing to say, I do not want to intervene further in the debate or to discuss the whole question of separation of accounts from audit in its general bearing. All we are dealing with here is this special case. But I would like to say that the experiments that have been conducted in other directions during the course of the last year or 18 months have yielded remarkable results. They have, I

may inform my Honourable friend Mr Neogy, entirely dissipated the preliminary doubts of the Auditor General as well as of the Acting Auditor General. I have personally wished to reserve my final judgment until I have seen more of the experiments. But I have very little doubt that they are on the right lines. There is one rather unfortunate experience. We started an experiment at Bangalore in the separation of accounts from audit, and one of the first results discovered by the Auditor General, when he was free to do his own duty, was that about four lakhs a year had been paid by the Madras Government since 1921 for pensions, which ought to have been paid by the Central Government. I do not know whether from a narrow stand point that is for me a recommendation in favour of the change, but it does show that when the Auditor General is free to do his proper job, he very quickly gets on to mistakes that might continue quite indefinitely when the internal check and the external audit are in the same hands. I have intervened in this debate because I want to assure the House that this is an experiment in which we are all very much interested, and that we are not trying to rush the House to committing itself before the thing has been fully explored.

**Mr B Venkatapatiraju** (*Gunjam cum Vizagapatam* . Non-Muhamadan Rural) Sir, we are thankful to the Honourable Sir Basil Blackett for declaring that by passing this Resolution we will not be committing ourselves to the policy of the separation of accounts from audit. But I have to offer a few observations with reference to what fell from the Honourable Sir Basil Blackett that he is not depriving the Auditor General of his powers by this Resolution. I may invite his attention to the fact that under the Government of India Act,—the rules framed thereunder were subsequently amended by No 917, F G, dated 11th May, 1922,—under the Government of India Act, the Auditor General is regarded not only as the administrative head of the Indian audit which he was before, but he is regarded as the head of the accounts service also.

**The Honourable Sir Basil Blackett** I did not say that we were not reducing the Auditor and Accountant General's functions. It is quite another matter. My point was that, as Auditor General, we were not only not taking anything away from him, but we were adding very much to his capacity for carrying on his function.

**Mr B Venkatapatiraju** Under the present law the Auditor General is not only the administrative head of the audit department but also of the accounts department. When we refer to what was discussed in the Public Accounts Committee, we noticed some time back that the Government of India had an idea of taking a reverse course, because when they found that the accounts kept by the company-worked lines were not being properly checked, their suggestion was that the auditors employed by private companies should be independent of the directors. That was the view expressed by the Government of India, and they wanted to induce the company lines to have their own audit department independent of themselves. But on account of some technical objections raised as to whether the Government of India could interfere in the matter under the existing contracts, the proposal was not pursued further. But in the very document supplied by Mr Sim, we find that in paragraph 37 of the

Standing Finance Committee's proceedings for railways, this is what occurs

"Two questions suggest themselves naturally at this stage—is it not possible for an outside and independent auditor, working in the Railways, to look at financial questions from the railway point of view also, and to co operate with and assist the administration? And if this is possible, why duplicate the work by a superimposed audit, which must mean extra cost, and which at best cannot be as effective in the prevention of irregularities and wasteful expenditure as the preliminary audit? These points have been dealt with exhaustively by Mr Jukes and the Auditor General in printed notes which have been submitted to the Railway Board "

Now this document the Government are not prepared to place before us for reasons best known to themselves

**The Honourable Sir Basil Blackett** I should be very glad to place that document before the House if it will interest them. It is a polemic answer, I understand, on a polemic issue, and such documents we do not care to place before the House. I had not heard of this matter until this morning, but I should be very glad to put it before the House. But if I may be allowed to do so, I should like to examine it in order to avoid putting before the House some needless polemics contained in it between two departments as regards particular points raised. But I can assure the House that the document is strongly in favour of the separation of accounts from audit.

**Mr B Venkatapatiraju** But unfortunately I read quite a contrary statement to what is made here. What is stated is that

"These points have been exhaustively dealt with by Mr Jukes and the Auditor General "

—perhaps another officer—

"in the printed notes which have been submitted to the Railway Board. The answer to the first question has been held to be in the affirmative "

That is, Mr Jukes and also the Auditor General found that if they avoid pre-audit it would increase irregularities and wasteful expenditure.

**The Honourable Sir Basil Blackett** No.

**Mr. B Venkatapatiraju** The answer to the first question has been held to be in the affirmative. Now what is the question?

"Is it not possible for an outside and independent auditor, working in the railways, to look at financial questions from the railway point of view also, and to co operate with and assist the administration? "

**The Honourable Sir Basil Blackett** It is possible.

**Mr B Venkatapatiraju** I am told that my Honourable friend is ready to place the document before us. We are only concerned with what Mr Jukes and the Auditor General have stated. I may just tell Sir Purshotamdas Thakurdas, who is anxious to defend the Acworth Committee (*Sir Purshotamdas Thakurdas* "I have not spoken on it at all yet, Sir"). Yes, Sir Purshotamdas has referred to it, he said the Acworth Committee had recommended this and so we could accept it. And Mr Sim also stated that he based his Resolution on the recommendation of the Acworth Committee. This question was not specifically dealt with. This is an *obiter dicta* of the Committee. (*A Voice* "No, no") Yes. The

witnesses were not asked any questions about it. No reference was made to it in cross-examination of officers of the audit department. No witness was specifically asked nor did any person, not even Mr Tomkins, Secretary of the Railway Board, who was examined, state anything. The only statement there is that they prefer that the Audit Department and the accounts should be separated and the accounts should not be under the Finance Department but under the Railway Department. That was what was recommended by the Acworth Committee. But the present proposal is quite contrary to what was recommended by the Acworth Committee. What the Acworth Committee said was

"But the accounting staff controlling the Indian railways, from the Accountant General (Railways) at Delhi down to, in the case of the State managed railway, to the latest joined clerk in a local office, are officials, not of the Railway Board, but of the Finance Department. No doubt these officials gradually get to see the railway point of view, but they must be guided by rules laid down by the Finance Department, framed largely in view of the requirements of the non commercial departments of Government."

They want that it should not be placed under the Finance Department but under the Railway Department. That is the recommendation of the Acworth Committee. Now, I ask whether this proposal is at all in conformity with the recommendation by the Acworth Committee. On the other hand, just contrary to what was there recommended, you want to place it under the Finance Department. Subsequently also this was brought before the Incheape Committee, of which Sir Purshotamdas Thakurdas was an honoured member. And there it is stated, on page 164

"The Auditor General informed us that an attempt had previously been made to separate audit and accounts, but that the experiment broke down as a result of the present system under which payments are audited before they are brought to account. In our opinion, in view of the constitutional difficulties arising under the Reforms Scheme from the fact that a Provincial Government can require the audit and accounts department to maintain an account for which the Central Government pay, it is desirable to re-open the question of the separation of the audit and accounts."

They want to say with reference to this that it should be considered and inquired into. Now, I can very well understand that all persons who have any administrative experience of public bodies know how we come under the criticism of auditors. I know as chairman of a municipality for a number of years what objection there is to their supervision, we feel it a nuisance to be corrected at every step. Similarly you want to get rid of these things. Now, I find that even in America the question has come up and they consider that it is absolutely necessary to have pre-audit to avoid waste. I will read just one sentence to show that even in America they thought it necessary to have what under the present Resolution you want to avoid—namely, pre audit. Writing in "Form and Function" of American Government "Mr T. H. Reed says

"The California board, which may be taken as fairly typical, has established a system of pre-audit by which the requisitions of every institution and department must be approved by the board of control before supplies may be ordered or contracts made. Very notable economies have been secured as a result of this supervision."

Now, my simple point is this—Do you want or do you not want pre audit? Do you want expenditure made in conformity to rules or against the rules? Do you want to avoid pre-audit. (A Voice: "No, no.") I say definitely you want to avoid pre-audit. If Sir Basil Blackett says that pre audit is the same as pre-audit, I say that is not pre audit at all. I want pre-audit from a body independent of the spending department. It is

suggested that it would increase wastage and expenditure. Now, we all know post-audit. The advantage of post-audit is that you go and find out whether they have committed any mistake. But only by pre-audit will all the proposals and details be placed before them and then they will know it thoroughly, they can check it and carry out the functions of higher audit. If an officer like Mr. Sim makes a mistake, immediately the auditor will point out that it was not covered by the rules. Whatever his position may be, he must conform to the rules. If it is your own clerk, you say "Keep quiet, I will pass the order." Now my friends are under the mistaken impression that there will be a pre-audit as before even after this is accepted. But I submit there is no such possibility. Mr. Sim or somebody might say "Don't bother about that." And then their auditing clerks will not press it. Now, I submit this is an important matter, this not only concerns the Railway Department but the expenditure under the Imperial Government as well as the Provincial Governments. We have got a pre-audit system. If you once abolish your pre-audit system by an independent body, you are creating a dangerous innovation. And I may also state that you have also begun another experiment in appointing one officer in the customs office. Now these experiments are only gradually to extend the principle of avoiding outside control. When you once spend the amount, generally we know how we condone irregularities. We may pass a reprimand but we will not recover the amount. In the municipalities of the Madras Presidency when any irregularity is committed the Government impose a surcharge. Are you prepared to impose a surcharge on Mr. Sim that, whenever he commits an irregularity, it must be recovered out of his own pocket? I will only read one more extract—from an Indian paper like *Capital* which also condemns it. In April 1925, it said

"This is not at all worthy to be pursued", and so on

That is a commercial paper, represents commercial interests and it condemns this proposal. And therefore I appeal to all Honourable Members that this is an important matter bringing in an innovation to avoid pre-audit by an independent body and I hope that none of them will commit himself to any such dangerous thing which in course of time will prove very harmful to the interests of the country.

**Mr. Jamnadas M. Mehta** (Bombay Northern Division Non-Muhamadan Rural). Sir, it is with very great hesitation (*Cries of "Hear, hear"*) that I rise to support this proposition—not because I am not convinced of the absolute wisdom of the step which is proposed in the Resolution but because I find my great leader, Mr. Kelkar, and the Honourable Mr. Neogy are not yet fully persuaded of its necessity. I really find myself unable to understand their pathetic faith and their touching confidence in the existing system. What is it at best?—a mere brake. In all the literature that I have read about it I find that it is supposed to be a very efficient machinery for preventing waste and extravagance. That is about all.

Sir, I do not say that it has succeeded in doing so, but that is the greatest result that can be achieved by continuing it. I submit, Sir, that the railways as commercial bodies, are not concerned merely in preventing waste and extravagance, although that is one very important part of their



activities They have other functions besides, and it is these functions which the present system of accounts will not and cannot bring into existence That has been conclusively established by the Acworth Committee in the paragraphs quoted in the Memorandum of the Railway Board If you commercialise the railways, the Agents must be in a position closely to watch the expenditure from day to day, chase every rupee that has gone out of the railway treasury, to find out where it has gone and how it is working, and thus to evolve in course of time, by employing commercial as against budget methods, a system of accounting which exists in commercial bodies, but which it is impossible to have under the present rigid system (*An Honourable Member* "Why?") which has to conform to the budget form of accounting and has little or nothing to do with the business side of the working of the railways Prevention of waste is equally possible, and even more possible, in the proposed system Let us see how the present system works Supposing there is a lakh of rupees to be paid for buffers A bill is presented Under the present system they will find out whether delivery is given, then whether it is within the sanctioned amount, then whether it is to be debited either to capital or to revenue All these tests are employed before payment Very well But once that is done it is not the business of the accounts and audit staff to see how the expenditure will affect the financial working of the railway concerned, when the Department which keeps the accounts also audits them, the super-audit is bound to be less exact than it ought to be The existing pre-audit makes the super-audit nominal, the proposed system will make both the pre-audit and post-audit equally searching because each is done by separate organisations

**Mr B Das** You do not want pre-audit?

**Mr Jamnadas M Mehta** There will be pre-audit

**Mr A Rangaswami Iyengar** There are more irregularities in the State Railway Companies' accounts than in Company-managed Railways

**Mr Jamnadas M Mehta** Then support this proposition, because practically the same system prevails in the Company-managed Railways as we are now proposing

**Mr A. Rangaswami Iyengar** • No

**Mr Jamnadas M Mehta** Yes, Sir Well, let me proceed The Press campaign against this proposition has been singularly ill-informed and unfair I will not be far wrong if I say that my Honourable friend Mr Neogi is both the mother and father of this Press campaign Sir, it has been said that the Financial Commissioner under whom the new accounts staff will work is not an independent functionary but only a railway officer and that by having this experiment we will be giving up the control of the Assembly into the hands of the Agent in the matter of accounts Each of these propositions is incorrect as I shall attempt to show hereafter Any Honourable Member who opposed the separation of railway finance from general finance would be logical if he made this complaint But it should not be possible for any man who supported that separation to run away from its implications

**Mr N. M Joshi** What has that got to do with this ?

**Mr Jamnadas M Mehta** The implications of that separation are that the Railway Agent shall be primarily responsible for the accounts, because now we hold the Railway Agent responsible for the successful working of the Railway. He is responsible for making the Railways pay and we have laid it down that Railways shall earn a certain percentage over the capital invested in them. If you expect the Railway Agent to give you a certain return over the capital, then certainly he is entitled under the control of the Financial Commissioner to see from day to day how the accounts are being kept and whether they cannot be kept in a different manner. It does not affect the control of the Assembly in the least. The point was discussed in the Standing Finance Committee for Railways and it was unanimously agreed by that body that the Assembly's control would remain unaffected first through the Financial Commissioner and secondly through the Standing Finance Committee which is elected by this House.

My Honourable friend Mr Raju referred to two questions raised in Mr Mitra's note (1) whether the same thing which we propose cannot be done under the existing system, and (2) whether the expenditure would be justified. The reply to the first question was that it could be done under the present system. But greater emphasis is laid on the reply to the second question. Sir, the observations of Mr Mitra are entitled to the greatest weight in this matter. He says

“ The answer to the second question is that undoubtedly audit will be considerably improved in efficiency, both by being more independent ”

(*An Honourable Member* “ How ? ”) Because the man who audits is not the same as the man who keeps the accounts.

**Mr Chaman Lall** Yet he is under the Agent.

**Mr Jamnadas M. Mehta** No. To-day, the man who keeps the accounts is also the man who audits them. It is not so in the proposed system.

**Mr Chaman Lall** Is he not under the Agent ?

**Mr K C Neogy** In future, test audit will be of 15 per cent.

**Mr Jamnadas M. Mehta**

“ when it is absolutely uncontrolled by the executive, and by being able to devote more attention to its higher functions of preventing wasteful and extravagant expenditure, when it is relieved of the numerous mechanical processes of check which it has to exercise at present. An officer, whose primary and bounden duty is to criticise the work of others from the points of view of the taxpayer and to watch on behalf of the Secretary of State that the orders restricting the financial powers of authorities in India are duly observed in every case loses much of his independence, even without owing allegiance to the Railway Department, when in addition to his duty as a critic he has to see and administer financial rules from a railway point of view, to act as the Financial Adviser of the Railway Agent, and to give precedence to administrative considerations over financial rules and regulations ”

**Mr K. C Neogy** What about Mr Sim, then ?

**Mr Jamnadas M Mehta** This is what is being done now, and Mr Mitra says that if you once remove the audit from these trammels, audit will be more independent and more efficient.

**Mr Chaman Lall** Under the Agent.

**Mr Jamnadas M Mehta** The further observations of Mr Mitra will be found on page 6. He says

“ An officer, who has not to undergo the mechanical processes of calculating posting, totalling, carrying forward, reconciling, comparing signatures and so forth,

except to check a small percentage of these processes and to test that they are being done correctly and efficiently, can do far more effective and intelligent review of expenditure in the direction of preventing waste and extravagance, than he would otherwise be able to do. Such an officer will undoubtedly repay " , ,

—this is an answer to the charge of extravagance—

" will undoubtedly repay more than the cost of himself and his staff, if he is given adequate facilities and assistance in his work "

**Mr Chaman Lal :** How does he know ?

**Mr. Jamnadas M. Mehta :** The whole of Mr Mitra's report is replete with observations that the audit which is now proposed will be more independent, more effective, and therefore more desirable, and that in the long run the cost of the internal check will be reduced and so even this added expenditure may not be felt. That is what Mr Mitra says

Then let me come to the question of the independence of the Financial Commissioner, my friend Mr Sim. Some people who have referred to this matter appear to have forgotten that under the new system the control that we have got to-day remains absolutely untouched, and that since the separation of railway finance from general finance, whatever control there was has been greatly expanded. That cannot be questioned. Sir, people talk without remembering what was said last year when the separation of railway finance was under consideration. I have in my hand a note of my friend Mr Parsons, dated the 28th August, 1924, which was available to Honourable Members. He says that the Financial Commissioner will have the same powers to-day that the Advisor had before, and that in essentials the Agent is not so free or untrammelled as some people imagine. Mr Parsons points out that Mr Sim, *i.e.*, the Financial Commissioner, will control under this system even the grant of an allowance to an employee, the addition of a clerk to an office and of course he will control large expenditure involving lakhs of rupees. In matters of difference of opinion with the Chief Commissioner of the Railway Department he has the right to refer them to the Finance Member. He has also the right of free access to the Finance Member and all financial proposals are discussed before the initiative is taken, and whatever he taboos cannot be undertaken. All matters of major importance are discussed by him with the Finance Member in the initial stages. The independent control exercised is, therefore, much greater than before. Then the other advantage is that as Mr Sim is associated with the Railway Board, he is in close touch with railway affairs and he knows at first hand what is being done and what is not being done. What is the use of our knowing months after the thing has been done, and when the horse has been stolen ? To day in enforcing that control the Financial Commissioner is helped by the Standing Finance Committee.

**Mr K O Neogy :** Helped by Mr Jamnadas Mehta

**Mr Jamnadas M Mehta :** Yes, Sir, as a member of the Committee I am glad to help him and he deserves every help of the Standing Finance Committee. We have the greatest confidence in Mr Sim, and if all Government Committees were run as he is running the Standing Finance Committee very little cause for complaint would remain. Well, Sir, the whole thing at the bottom is suspicion. Suspicion is writ large on the opposition which Mr Neogy has engineered against this proposition—engineered because there is no foundation or justification for the opposition which he has been leading with great ability. The

real test is this does the House believe in the commercialisation of railways? If it does not, I will not ask it to support this proposition. But, Sir, Members of the House who believe in commercialisation will, I trust, allow the Agent the fullest liberty to keep and to control his accounts from day to day, he would be further controlled by the Financial Commissioner in consultation with the Standing Finance Committee, and the House's control at the top remains absolutely untouched. As I said before, not even an allowance can be granted to an employee by the Agent without Mr Sim's consent, and therefore the argument of the so-called independence of the Agent from Mr Sim, *i.e.*, from the Financial Commissioner, is absolutely unfounded.

One word more and I have done. It is unfortunate that the system of Government to-day is such as to arouse our suspicion in their *bona fides*. This is the greatest difficulty and it is because Government as constituted to-day excite our suspicion that even when they do a good thing the suspicion continues. That is the real reason of the opposition to this motion, but the proposed change in the system of accounts and audit exists in Belgium which is a self-governing country, where there is no bureaucratic system and where separation of railway finance has been carried out under a Statute and audit is being done exactly as is proposed in this Resolution. And what is being done in independent countries is certainly the right thing to do in this country, why object to a good thing simply because it is being achieved through a machinery of which we are suspicious. (*An Honourable Member* "We have not got self-government") Will you reject a good thing and be better off because we have not got self-government?

**Mr K C Neogy** Mr Jamnadas Mehta has got self-government!

**Mr Jamnadas M Mehta** This irrelevant interruption will not prevent me from giving my whole-hearted support to this motion because I feel that Mr Neogy and those who have engineered this opposition are absolutely innocent of the great merit of this proposition, and I further say that they have not cared to understand this question from the railway point of view.

**Mr K C Neogy** From Mr Jamnadas's point of view.

**Mr Jamnadas M Mehta** You can go on interrupting me, but you will not deter me for a single moment from supporting this proposition.

**Mr President** The Honourable Member has exceeded his time.

**Mr Jamnadas M Mehta** The fault, as you will have observed, Sir, is not mine, but if you will permit me, I will wind up with one sentence. If the House wants to accept the position that railway finance should remain separate from the general finances, that the railways should be commercialised and that the State management of railways must be a success and not a failure then, Sir, they have got no alternative but to try this experiment and watch the results until we can pronounce a final judgment on the scheme which is before the House. I have great pleasure in supporting the Resolution.

**Dr K G Lohokare** The amendment that I have given notice of runs as follows

"That in clause (a) for all the words beginning with the words 'On each railway system' to the end of the clause the following be substituted

'On each railway system the head of the accounting staff will be directed by the orders of the Financial Commissioner'

**Mr President** Does the Honourable Member move the amendment as it stands ?

**Dr K G Lohokare** No, I am just coming to it

**Mr President** I understand that Mr Sim and the Honourable Member have agreed that the amendment should be in a modified form and the Government are prepared to accept it. If that is so the Honourable Member may straight off move the amendment in that modified form agreed upon

**Dr K G Lohokare** The amendment thus modified would run as follows

' On each railway system the accounting staff will be under the orders of the Financial Commissioner of Railways for the purpose of appointment, transfer, promotion, etc ' "

That is the corrected amendment

**Mr President** Promotions, transfers, etc That is the wording

**Dr K G Lohokare** Yes, Sir That is the amendment in the modified form and agreed to by the Financial Commissioner of Railways I need not explain these things in detail since my Honourable friend has already accepted the principle and all my Honourable friends know that this is desirable in the interests of the separation of the accounts and audit I commend the amendment to the acceptance of the House

**Mr President** Amendment moved

" That in clause (a) for all the words beginning with the words ' On each railway system ' to the end of the clause the following be substituted

' On each railway system the accounting staff will be under the orders of the Financial Commissioner of Railways for the purpose of appointments, promotions, transfers, etc. ' "

The question is that that amendment be made

The motion was adopted

**Mr M. K Acharya** Sir, I beg also to move a small amendment

" That at the end of clause (a) the following be inserted "

—I will read the amendment as suggested to me by the Financial Commissioner of Railways, it runs as follows—

" ' reporting, however, to the Financial Commissioner any differences of opinion which may arise from time to time between himself and the Agent. Such differences of opinion shall, in due course, be made available for inspection by the Standing Finance Committee for Railways ' "

**Mr G G Sim** (Financial Commissioner, Railways) I willingly accept this amendment because it carries out the intentions of the Standing Finance Committee. When Mr Acharya showed me his amendment first, I pointed out to him that there are a very large number of cases where differences of opinion arise between an Agent and the financial authorities regarding small matters such as the amount of pension or leave a man is entitled to, the amount of gratuity, that is payable to a man and cases of that kind. I do not consider that the Standing Finance Committee would care to be flooded with these petty cases. If Honourable Members will refer to the proceedings of the Standing Finance Committee they will find that, at the instance of Mr Rama Aiyangar, I agreed that all general instructions circulated to all the chief accounting officers in our railways should be placed before the Standing Finance Committee

**Sir Purshotamdas Thakurdas** That is in regard to (g) What about (h) on page 7 ? You agreed to (g) and said that you will consider (h) ?

**Mr. G G Sim** That is rather a different matter Mr Rama Aiyangar raised the question of whether the Standing Finance Committee should not take the place of the Public Accounts Committee in regard to certain functions, a suggestion which cannot be immediately settled. But as regards this amendment the position is simply this. I do not want to flood the Standing Finance Committee with all these small cases. I do not think they want to see them. But I shall place, I have agreed to place before them all these general questions—any case where an Agent and a Chief Auditor differ on an important principle would naturally be the subject of a general letter to all the different railways and that, Sir, will cover all big questions. But in order to cover any other cases which would not be covered by general letters, I suggest that we should pass the amendment in this form, that the papers should be made available for inspection by any member of the Standing Finance Committee. I am quite agreeable to placing before them any cases which the Finance Committee consider suitable, only I do not think they want their proceedings flooded out with these small cases.

**Sir Purshotamdas Thakurdas** I understand from the Honourable Mr Sim that he would be quite prepared to put such details before the Standing Finance Committee as they might desire.

**Mr G G Sim** Yes, it will be for the Standing Finance Committee to settle what cases they wish to look at.

**Sir Purshotamdas Thakurdas** And you agree to abide by the decision of the Standing Finance Committee?

**Mr G G Sim** Yes, Sir.

**Mr President** Amendment moved.

“ That at the end of clause (a) the following be inserted

‘ reporting, however, to the Financial Commissioner any differences of opinion that may arise from time to time between himself and the Agent. Such differences shall in due course be made available for inspection by the Standing Finance Committee for Railways ’ ”

The question is that that amendment be made.

The motion was adopted.

**Mr President** The question is

“ That the Resolution,\* as amended, be accepted ”

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\* “ This Assembly recommends to the Governor General in Council that with a view to improving the system of audit and accounting on railways, a reorganisation in the direction stated below be introduced forthwith as an experimental measure on the East Indian Railway

(a) The Auditor General shall in future be responsible for audit alone. He should no longer be required to maintain the accounts of the railways or to control their accounts staff. Such control should pass, not to the Railway Board as such, but to the Financial Commissioner of Railways. On each railway system the accounting staff will be under the orders of the Financial Commissioner of Railways for the purpose of appointments, promotions, transfers, etc., reporting, however, to the Financial Commissioner any differences that may arise from time to time between himself and the Agent. Such differences shall in due course be made available for inspection by the Standing Finance Committee for Railways.

(b) The accounts staff under the Financial Commissioner of Railways shall perform duties practically identical with those hitherto undertaken on State worked railways by the accounts and audit staff under the Auditor General. Where the latter exercised an audit properly so called, the new agency will conduct an ‘ internal check ’, but the nature and extent of the scrutiny will be approximately the same in both cases.

(c) The Auditor General shall, in order to enable him to fulfil his statutory responsibilities, be provided with a sufficient staff to make a satisfactory audit of the work of the accounts offices.”

The motion was adopted by 67 votes against 14.

## Demands for supplementary grants

*Tuesday, 15th September 1925*

## STAMPS

**The Honourable Sir Basil Blackett** Sir, I beg to move

“ That a supplementary sum not exceeding Rs 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st March, 1926, in respect of ‘ Stamps ’ ”

This sum is required for the continuance and completion of the new stamp factory at Nasik. The House will remember that by a small majority in the last Session, it reduced this vote by 17 lakhs with a view to the particular item in question being charged against capital instead of against revenue. The Government of India have carefully looked into the position. Without raising the general question, I would like to draw the attention of the House to the position in this particular case. This factory was actually started a year ago, and there was charged against revenue in the year 1924-25 a sum of, I think, 8 lakhs. The amount required to complete it was included in the budget estimates for this year. It does not seem a very suitable moment to change over from revenue to capital in the middle of the construction of the building, and as there is no particular reason why we should at this moment change over from revenue to capital, we are indisposed to find this sum out of capital, and we have decided to come back to the House and ask them to vote it as a charge against revenue. The position is that, if we have a surplus, it will be a surplus of 17 lakhs more, if we charged this sum to capital than if we charged it to revenue. If there is a surplus of 17 lakhs or more, that sum will presumably go to reduction of debt, and so we shall be simply borrowing with one hand and producing debt with another. If there is a deficit, in any case this sum will be borrowed. So, in the middle of the year, I think it would probably be undesirable to make a change in this particular case. I do not wish to go into the general question of the desirability of charging this particular building or buildings in general to capital. I am willing to admit that this is one of those cases which is fairly near the border line, and it was on that basis that the House voted that it should be charged to capital, having the day before come to a contrary decision in regard to buildings included in the salt vote. But I am quite willing to admit that this is somewhat nearer the border line than other cases. It is however a building which is being put up for administrative purposes, and the rule that we have hitherto followed is that buildings for administrative purposes should be charged to revenue, and that we should borrow, only for purposes of what is really reproductive capital expenditure such as Irrigation, Railways, etc.

**Sir Purshotamdas Thakurdas** I am afraid, Sir, I must oppose this motion, and I wish that the Honourable the Finance Member would not press this to a division. There is no reason adduced by him as to why the Assembly should change the opinion which it recorded after what I consider to be a very full discussion of this subject last March. The only ground advanced by the Honourable the Finance Member is that a sum of 8 lakhs and odd has already been debited to revenue in connection with this building, and therefore this second instalment of 17 lakhs should be allowed to be so debited. May I ask him, Sir, if the total cost of the buildings is not—I am speaking from memory—approximately 50 lakhs?

**The Honourable Sir Basil Blackett** These two sums, 17 lakhs and about 8 lakhs are the total

**Sir Purshotamdas Thakurdas** With the machinery it comes to about 50 lakhs.

(*The Honourable Member* It is about 50 lakhs.)

**Sir Purshotamdas Thakurdas** One Honourable friend on my right says it is about 50 lakhs. But whatever the amount may be, as far as we are concerned it is certainly not going to end with these 17 lakhs.

**The Honourable Sir Basil Blackett** Yes, it ends for this year.

**Sir Purshotamdas Thakurdas** With the machinery included?

**The Honourable Sir Basil Blackett** I do not think that anybody has ever raised that question at all.

**Sir Purshotamdas Thakurdas** Would you charge the machinery to capital and buildings to revenue?

**The Honourable Sir Basil Blackett** Machinery is always charged to revenue.

**Sir Purshotamdas Thakurdas** What is the difference? This, Sir, is not a building for administrative purposes. This is a building put up for a department which we are told is going to be run on a commercial basis. Why charge either the machinery or the building to revenue account? I feel, Sir, that the Assembly would be making a great mistake in complying with the Honourable Member's suggestion at this stage even, and I suggest it to my Honourable friend that the right course would be to debit the 8 lakhs to them and also to the capital account, so that we may know exactly how far the estimates on which this scheme has been based turn out to be correct. I do not think I need say anything more. No fresh reason has been adduced by the Finance Member as to why the Assembly should change its previous verdict and I am afraid the Finance Member's is a very wrong policy. The Finance Member said, Sir, that in March last the Assembly turned down this demand of 17 lakhs after having voted for some buildings, etc. in connection with salt works. I am sure that he will agree very readily that the two questions are very wide apart. In connection with the Salt Department the works may not be good enough even for some years. They have to be renewed at short intervals and are liable to be washed out. In the case before us to day we are putting up a substantial building and the whole thing was reported by the Standing Finance Committee to be an absolutely commercial proposition, and I think that if ever there was a case in which the Assembly should insist that the cost should be debited to capital, it is in this case. This demand of 17 lakhs may well be turned down and the Finance Member should debit the first 8 lakhs also to capital, so that we may have our capital account for this part of the Government's enterprise accurate. I oppose the motion.

**The Honourable Sir Basil Blackett** Sir, I do not know what it is to which Mr Rangaswami Iyengar objects, but he is very clever at finding objections. This vote was, as I said, rejected by the House last March. The Government of India had the option of restoration. They did not restore it. Does he object to that?

**Mr A Rangaswami Iyengar** Yes, they did not restore it, but they come to the House again to get it to reverse its own decision when the time seemed favourable to the Government.



**The Honourable Sir Basil Blackett** That was the Honorable Member's first objection, that we did not use our powers to restore this grant, but that, instead, we come back to the House and give them an opportunity to discuss the thing again. The building is in course of construction. We had three alternatives. One was to restore the grant and to continue the building. The other was to accept the decision of the House and charge to capital. But even in that case we had no authority from the House because nothing had been voted. We should have had to come back to the House and bring forward a supplementary grant for the charge to capital. But in the meanwhile we should have had to go on with the building. What we have done is that, in view of the fact that the House did not want the building to stop, which was the net effect of its vote, we have given it a further opportunity of restoring the grant.

**Sir Purshotamdas Thakurdas** I think the Government would not have correctly understood the speeches that were made then. We wanted the expenditure to be out of capital.

**The Honourable Sir Basil Blackett** Certainly, but we were still without any formal authority from the House to spend the money. We have therefore come back to the House to ask them to reconsider their decision. I do not deny that. That is the one purpose of our coming back. I do not know why Mr. Rangaswami Iyengar should object to our giving the House an opportunity to reconsider their decision. He says that we are doing it at an opportunity which is favourable to us. This item on the agenda has been on the agenda since I think last Thursday. We are still dealing with last Thursday's agenda and I think it would have been very clever of the Government if they had managed to keep the House with a majority all the time to secure that when this particular item happened to come on for decision the Government should be able to carry it their way. We have come before the House perfectly plainly and put before them this proposal. I was careful, when I got up, to ask the House to take this decision on practical grounds, that whatever our view on its merits may be as regards the desirability of charging this to capital or not, we should in this case charge it to revenue, because it was started under revenue, and because the only effect of charging it to capital would be a purely book-keeping one, except that we should have to include next year a sum for amortisation of this charge. If the House wish me to discuss the whole question on its merits at this time I am perfectly willing to do so. I still hold the view, and I wish to give an opportunity to the House to hold the view, that this building ought to be charged to revenue. I was rather interested to get put into my hands the other day a report by the Commissioner General of the League of Nations for Hungary who is representing the League of Nations in the business of reconstruction and I came across this passage

"It is noticeable that the Post, Telegraphs, and Telephones have adopted the sound principle of including in their budget items for capital outlay. The management of the Posts, Telegraphs and Telephones is to be congratulated on having included in it all its capital expenditure and meeting the expenditure from its own receipts."

There is much to be said on both sides on the general question as to whether or not you should charge such an item to capital. I deliberately did not raise that question now. I asked the House to come to a decision on nothing else except that, for practical reasons, it is advisable that this charge should continue to be charged to revenue and I submit that they should, in view of the explanation, pass this vote and not raise the general issue.

**\*Mr R. K. Shanmukham Chetty** May I know what would be the possible difficulty if this is charged to capital account and not to revenue account ? Why should the Finance Member take the trouble to say to the House that on practical grounds this should be charged to revenue ? May I know what would be the difficulty in charging it to capital ?

**The Honourable Sir Basil Blackett** If I was to carry out the suggestion of Sir Purshotamdas Thakurdas it would mean re-opening last year's account which is rather a difficult thing to do. If this is charged to capital it would be doing what has not hitherto been done and the only practical effect would be, if it has any practical effect at all, that the 1926-27 estimate would be increased by a sum of approximately two lakhs, representing amortisation on this charge.

**\*Mr R. K. Shanmukham Chetty** Sir, the fact that 8 lakhs which has already been spent on this has been charged to revenue is not a very serious objection to including this item now in the capital portion, for this reason that there is still 15 lakhs of rupees to be spent in the purchase of paper, etc., which I suppose might be spent either during the course of next year or the year following. Now, Sir Purshotamdas suggested that 8 lakhs out of this might be transferred to capital account. The whole of the money that is to be spent would then appear in the capital account and we would know exactly how things stand.

**The Honourable Sir Basil Blackett** If the Government do make an adjustment I think they ought to do it in a straightforward manner and not arrive at it in a round-about way which would amount almost to misappropriation in form though not in intention. I said the Government asked the House for practical reasons not to press the charging of it to capital. I am quite prepared, if the House so desire, to defend the case on principle, but I do not now put the case on financial grounds of principle.

**Mr President** The question is

“ That a supplementary sum not exceeding Rs. 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st March, 1926, in respect of ‘ Stamps ’ ”

The motion was negatived by 42 votes against 38

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*Thursday, 17th September 1925*

## DEMANDS FOR SUPPLEMENTARY GRANTS

CAPITAL OUTLAY ON SECURITY PRINTING PRESS NOT CHARGED TO REVENUE

**The Honourable Sir Basil Blackett** (Finance Member) : Sir, I beg to move

"That a supplementary sum not exceeding Rs 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1926, in respect of 'Capital outlay on Security Printing Press not charged to Revenue' "

There is no need for me to explain to the House the circumstances in which this estimate is introduced. The Government of India have taken into careful consideration the views expressed in this House two days ago. They understand that those views were intended not to challenge the principle that departmental buildings should normally be charged against revenue and borrowing should take place only for purposes that are strictly reproductive, but that the view of the House was that this case is one of a building which should be regarded as being for reproductive purposes. That, I think, was the view actually expressed by some of those who opposed the motion for a supplementary grant when it was proposed to charge it to revenue. The Government attach very great importance to that principle and they desire it to be understood that, in accepting the view of the House in this particular matter, they are simply accepting the view that this case is one which can be regarded as the case of a building which is for reproductive purposes, and the general principle that buildings for departmental purposes should be charged to revenue is not infringed.

Sir, I beg to move

**Mr Devaki Prasad Sinha** (Chota Nagpur Division Non-Muhamadan) : Sir, may I ask if it indicates a change in the policy of the Department presided over by my Honourable friend, showing that, so far as revenue-earning departments are concerned, buildings will be charged to capital now?

**The Honourable Sir Basil Blackett** : I have already specifically stated that it does not.

**\*Sir Purshotamdas Thakurdas** (Indian Merchants' Chamber Indian Commerce) : I am sure, Sir, the House will welcome this compliance by the Honourable the Finance Member with the opinions expressed by the House two days back.

The Honourable the Finance Member made it very clear that this would be restricted only to departments conducted on commercial lines, I understood. Is that correct?

**The Honourable Sir Basil Blackett** : I did not go beyond this particular case.

**\*Sir Purshotamdas Thakurdas** : Even if there is no inference to be drawn from this and if this is not to create a precedent, all the same I need not quarrel with it. We can apply it to each case as it comes up. But, I thought this principle would be applied to every department which

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\* Speech not corrected by the Honourable Member

was conducted on commercial lines by the Government of India, and I do hope, now that the Post and Telegraphs Department is being put on commercial lines, the buildings there will also be charged to capital. But if the Honourable the Finance Member is not prepared to agree to this, I do not think we need follow up the question at all. I wish to express the appreciation of the House of the ready manner in which the Honourable the Finance Member has seen his way to comply with the opinions of the House expressed two days back.

**Mr Jamnadas M Mehta** (Bombay Northern Division Non-Muhammadan Rural) Sir, I also welcome this compliance on the part of Government with the declared wishes of the Assembly and it is not to be log cally followed up, I hope, that in the next Session Government will at least investigate this question with the help of the Assembly and come to a decision thereon. I know Government are not prepared to commit themselves at this stage to any definite line of action but the Honourable the Finance Member is aware that the House has strong views on this matter. The beginning made to-day is good, but let us have something more than a mere isolated case, the differences do not begin and end merely with this Security Printing Press. They are vital and they relate to various things not merely in this matter but in railway matters as well as in other departments. The question as to what should be charged to capital and what should be charged to revenue has been a matter of keen controversy and the House feels and the country feels that the complaint of the Incheape Committee—I think it was—that capital is getting undue relief is not merely confined to railways but it extends to other departments of Government also. And a comprehensive inquiry should be undertaken which will settle once for all what should be charged to capital and what should be charged to revenue, so that the present generation will not be compelled to bear the burden which posterity should bear, the matter should be taken up next Session, thoroughly investigated and a permanent settlement found. I hope, Sir, the Honourable the Finance Member will at least agree to that. In that case only will I agree that he has given proof of having a heart.

**The Honourable Sir Basil Blackett** Sir, I have only to say that I disagree entirely with Mr Jamnadas Mehta and I have already said so, Sir.

**Mr President** The question is

“ That a supplementary sum not exceeding Rs 17,00,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st day of March, 1926, in respect of ‘ Capital outlay on Security Printing Press not charged to Revenue ’ ”

The motion was adopted.

*Thursday, 27th August 1925*

## THE CONTEMPT OF COURTS BILL

**The Honourable Sir Alexander Muddiman** (Home Member) Sir, I move

“ That the Bill to define and limit the powers of certain Courts in punishing contempt of courts be referred to a Select Committee consisting of Mr H Tonkinson, Mr L Graham, Sir P S Sivaswamy Aiyer, Khan Bahadur Maulvi Ghulam Bari, Colonel Sir Henry Stanyon, Diwan Bahadur T Rangachariar, Mr A Rangaswami Iyengar, Mr K C Neogy, Mr N M Dumasia, Sir Hari Singh Gour, Mr S C Ghose and myself, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six ”

**Sardar V N Mutalik** (Gujarat and Deccan Sardais and Inamdars Landholders) May I suggest the addition of the name of Mr N C Kelkar ? Sir

**The Honourable Sir Alexander Muddiman** Certainly, I have no objection

Sir, I introduced at the last Session of this House a Bill the object of which was to deal with the question of contempt of court. Now that Bill has been circulated to Local Governments and the opinions received are before the House. I would preface my remarks by saying that these opinions undoubtedly criticise with considerable cogency certain details of the Bill, but I think I am justified in claiming that the majority of them support the main principles of the Bill, and this being a motion for reference to a Select Committee, all that I am concerned to defend at this present moment are the principles of the Bill. I ask the House to affirm those principles. The question therefore arises, what are in effect the principles laid down by the Bill ? They are three.

In the first place the Bill confers certain powers on the Courts specified in the Schedule, and you will observe that those Courts are the highest Courts in the local areas concerned, they are the High Courts where there are High Courts and they are the Courts of the Judicial Commissioners where there are no High Courts. Those powers, I wish to emphasize at this stage, are conferred on the highest Courts of the local areas concerned. The powers which we desire to confer, to put it very briefly and in no technical language, are the powers possessed by the High Court in England in respect of contempt. They are powers which undoubtedly exist in the case of the chartered High Courts, and they are powers which we think ought to exist in the case of those Courts which are not chartered High Courts. The second principle of the Bill is that it enables those Courts specified in the Schedule to protect the Courts subordinate to them. The third point of principle is that the Bill restricts, not the jurisdiction of the High Court in contempt, or at least it is not the intention of the Bill that it should so restrict the jurisdiction of the High Court in contempt, but the penalty which may be imposed by the High Court in case of contempt. It limits the High Court's power in that direction, but it was not the intention of the framers of the Bill to limit the jurisdiction of the High Court. I mention that rather important point to-day because there has been opposition in certain quarters based I think on a misapprehension. We do not desire to clip the wings of the High Court's jurisdiction. What we do wish is to limit the penalty which the High Court may impose in a case of contempt. Now those I think can fairly be said to be the main principles of the Bill which I am asking you to refer to a Select Committee.

to day. The details of the Bill have, I am free to admit, been criticised in several directions by authorities whose opinions are in my judgment very well worthy of consideration.

I will now refer to one or two of the more important criticisms of the Bill because they may affect the view of the House on the measure as a whole. Now one of the principal criticisms has been directed at the definition of "contempt of court." I must say on reading those criticisms and giving them such consideration as I have been able to do, that it does seem to me that possibly amendments are required there. I must make it quite clear to the House that we do not desire in any way to do more than confer on the Courts the same powers as the High Courts in England exercise at the present moment. We have no desire to revive obsolete powers or to widen the scope of the Bill unnecessarily. There has been some criticism of the Bill on the ground that these powers are obsolete or obsolescent. That is not a fact. They are used in England, but they are not used frequently. I think, the reason being that they are not frequently needed to be used. The powers are just as real as they have ever been, however, and they are used where it is necessary to exercise them. That powers of this nature must always be exercised with great discretion and caution is of course obvious. That point is met by the fact that they are conferred on the highest Courts of the country and only in respect of the Courts themselves and the protection of Courts subordinate to them. We do not allow application to be made by individuals for the exercise of these powers. The Bill provides that they shall be exercised either at the instance of the Crown or by the Court. Individuals will not be able to gratify personal animosities by using the Bill.

Another criticism which seems to me of some weight which has been made on the Bill is that rigorous imprisonment is a penalty allowed thereunder. There I think we went too far. I think the imprisonment should be merely simple, and I agree myself with the criticisms which have been directed against the Bill in so far as they deal with that question. Another important point on which the Bill has been criticised is the fact that no procedure has been laid down in the Bill. Well, that is perfectly true. Clause 4 does not lay down a procedure, and I think there again what the critics of the Bill say is worthy of consideration. It is perfectly open to the Select Committee, if the House accepts this proposal, to insert a procedure. They could do that either referentially or, if they thought fit, by actually stating the procedure. Those are the main points which seem to me to deserve attention in the opinions which we have received.

There is one other point that I should like to mention at this stage, because it may save time if I do so. I observe that one of the Judges of the Patna Court apparently doubts the power of this Legislature to restrict the power of the High Court in contempt. I think the House will agree that there is no real foundation for such a contention. The High Courts are established under section 106 of the Government of India Act. They are Courts of record in virtue of that section. If Honourable Members will refer to section 106 and will then turn to the 5th Schedule to the Government of India Act, they will see that that Schedule specified the provisions of the Act which may be repealed or altered by the Indian Legislature and they will find that the second entry in that Schedule refers to section 106. So I do not think, should the House so desire, there can

be any doubt as to the legal power of the House to make such a restriction on the powers of the High Court. It might be wise to insert in the Bill some saving clause providing that the existing jurisdiction of the High Court in contempt should not be affected by the Bill. I think several of the High Courts have taken that point and it is certainly very well worthy of the consideration of the Select Committee, if the Bill ever goes to that body. I think I am justified in saying that this Bill is a serious attempt to deal with an admitted need in a rather novel fashion, namely, by making the High Courts the guardians themselves of the subordinate Courts. I trust the House will give the Bill and my motion very careful consideration. I think I am justified in claiming that the bulk of the opinions we have received from authoritative sources support the main principles of the Bill and though I admit—and admit quite freely—that the Bill will require considerable amendment in Select Committee, I submit to the House that it will be well advised to allow that reference.

Sir, I move that the Bill be referred to the Select Committee.

Mr Rangaswami Iyengar (Tanjore *cum* Trichinopoly Non Muhammadan Rural). Sir, when this Bill was introduced into this House, the situation at that time in connection with the budget was such and the general ideas which the Party to which I have the honour to belong accepted at that time were such, that we decided not to oppose the mere motion for leave. That did not by any means imply, Sir, that we either accepted the principle or the necessity for this Bill and therefore when we had the opportunity to peruse the contents of this Bill, we found, Sir, that the Bill was absolutely objectionable and therefore this Bill ought to be rejected by this House. The motion now made, Sir, gives us the opportunity to do so and also at the same time, fortunately the opportunity to know the opinions which have been expressed on this Bill by the country as well as by the Courts which have been affected by this Bill. My Honourable friend the Home Member very properly admitted that the opinions that have been received contained criticisms in detail and in profusion, if I may say so, on the several provisions of the Bill but he said that the main principle of the Bill has been generally accepted. Although I agree that many Governments have said in general terms that a Bill of this kind may be useful, I think if you examine the criticisms that have been made, you will find, Sir, that there is not one single provision of this Bill which may be considered to have been generally accepted. There are Governments and High Courts which have taken exception to section 2, there are Governments and High Courts which have taken exception to sections 3 and 4, with the result that there is nothing left in the Bill upon which you can say that these Courts and these Governments are unanimous. At the same time, Sir, you will have noticed that among the representations made by the public, by the Bar Associations and by the Press which is vitally interested in this matter, there has been a unanimous chorus of utter disapproval of the provisions of this Bill and the strongest objection to allowing this Assembly to legislate on a matter which is more or less obsolete.

Sir, the jurisdiction in contempt of High Courts in England from which the jurisdiction in contempt of High Courts in this country has been derived is one which arose during the days of the Star Chamber in England. That jurisdiction, Sir, pertained to the Courts in England and it survived notwithstanding the attempts to place the administration of

justice on a thoroughly impartial footing. The nature of this jurisdiction, Sir, you will notice is one which gives the person accusing the power to try the accused and to punish him summarily without the usual form of judicial procedure or a full trial. That is a power, Sir, which was considered to be inherent in the King and in the King's Courts which derived their jurisdiction from the King. Whatever might be the historical value of that position Sir, so far as modern notions of judicial administration and jurisprudence are concerned such a power is totally repugnant to all ideas of justice and fair trial. Sir, among the opinions that have been received will be found opinions which point out that the state of things in America is much better in this respect than even in England. In America, Sir the idea that a man can be punished for contempts of Courts committed by making observations upon judges or trials after they have terminated, the power claimed to try and punish him by way of contempt, is a right which is opposed to the Declaration of Independence and is therefore a power which has been considered to be beyond the jurisdiction of those Courts. Therefore, Sir, I put it to the House that it should summarily reject any proposal which provides for the denial to the meanest subject in this country of the right of a full and fair trial upon evidence duly recorded under the ordinary forms of procedure.

Sir, I do not mean to say that the law of contempt has absolutely no place in this country. The law of contempt has three aspects. There is first the law of contempt which is intended to protect the due and impartial administration of justice. So far as this is concerned, there are two ways in which this is dealt with. In the first place, people should not be permitted to introduce an atmosphere of prejudice, to prejudice the decision of points in dispute or adjudication before Courts, by making comments during the actual pendency of trials or causes and thereby of attempting to pervert the mind of the jury or the judge as the case may be, and interfering with the even and impartial administration of justice. Secondly Sir, people should not commit contempts in respect of orders made by courts upon clients or witnesses. Disobedience of these is technically called contempt, but is really a violation of the law. So far as that is concerned, Sir, so far as the protection needed for securing the due administration of justice in particular cases under trial in Courts is concerned, that law is left unaffected by this Bill and I need not make any observations thereon. But, Sir, when we come to the question of so called contempts in its other two aspects that which is sought to be imposed on comments on judges or Courts when the trial is over and on comments in respect of Courts or Judges personally or in respect of matters not necessarily under adjudication, the words of this section are sweeping

"Whoever, by words either spoken or written or by signs or by visible representation or otherwise, interferes with or obstructs or attempts to interfere with or obstruct the administration of justice in, or brings or attempts to bring into contempt, or lowers or attempts to lower the authority of, a Court specified in the Schedule or a Court subordinate thereto "

and the offender is punishable with rigorous imprisonment, etc

Sir, it has been the accepted principle followed by Judges in England, whatever might be the antiquity of this jurisdiction, that once a case is decided, the Judge who decided it is given over to criticism and criticisms, however severe or unjust, passed upon such Judges are not liable to the



jurisdiction in contempt of those Judges That is what the established decisions prove In the next place, Sir, if comments are made which are of the nature of a libel, the Judge concerned has his ordinary remedy by way of proceeding for misdemeanour under the common law or under our own procedure in this country There is no reason why a Judge who has been libelled should be placed in an exceptional position from that of other dignitaries or even the meanest citizen of the land He has got his remedies in the ordinary course Why should that right be taken away from the accused and why should he be summarily tried without the ordinary forms and the protection of tribunals Therefore, Sir, this proposition has been well established in England and I submit that this Bill in purporting to reintroduce the same principle into this country is in reality creating an entirely new offence, an offence, which so far as High Courts are concerned, has never been exercised in England or in India in recent times

Thirdly, Sir, the question arises as regards the rights of the High Courts to punish people for contempt of courts subordinate to these High Courts We have been told that there has been a conflict of decisions in this matter I submit, Sir, that I am not going to enter into the question of this conflict of case-law So far as that is concerned, the Government may or may not have other ways of dealing with it But I can confidently say that this Bill is not the way of doing it If that is all that is required, the duty of the Government is to withdraw this Bill altogether and frame another Bill merely to declare the law in respect of the jurisdiction of High Courts But, Sir, I take a different ground altogether I submit that the jurisdiction of the High Courts to punish by summary process contempts of subordinate courts for comments not *pendente lite* is obsolete in England and is not recognised in other civilized countries So far as the subordinate courts are concerned, I submit that if a subordinate court feels scandalized or libelled it should follow the procedure which is pursued by every other man who has been libelled or maligned I do not think that it can have any higher rights than the other people possess All the rights that a Judge can and need possess are the rights which are necessary to secure that in the cases actually before him the trial is not prejudiced by any wrongful act on the part of those outside the trial So far as that is concerned, the present law has been amply sufficient and it has not been contended that that law requires amendment

Sir, I do not wish to take up the time of the House The last thing that I desire to urge is that not only are libels or other offences which actually come within sections of the Indian Penal Code made punishable by this summary process, but also new offences are created by section 2 which are of the most dangerous character I will again read the section and I would ask the House whether it is right that the pettiest officer, who may be called a judicial officer in this country, should take it upon himself immediately there is anything upon which he feels his dignity wounded or his prestige affected, to set these contempt proceedings in motion against people who may have made *bona fide*

Mr. H Tonkinson (Home Department Nominated Official) May I ask the Honourable Member in what manner under this Bill these courts are enabled to set this law in motion as has been just stated by my Honourable friend



**Sir Hari Singh Gour** Not as a court of record

**Mr E H Ashworth** There are two views, but I will not go into this matter as it is a somewhat difficult one, and I think this House will agree that the power of the chartered Courts should be declared, and it has been declared by this Bill

There is a still more important point This House will scarcely agree that chartered High Courts should have those powers and not other High Courts If they are necessary in the case of chartered High Courts I think everybody will agree they are necessary in the case of the High Courts established by this Legislature and not by charter It is absolutely necessary unless you do away with the powers of the chartered High Courts which they have had from the earliest days of their existence and which I find no one has proposed to do away with—it is absolutely necessary that the other High Courts should have those powers How are you going to do it ? This Bill proposes a way to do it and the way the Bill proposes to do it is as far as possible to reproduce for the non-chartered High Courts the powers that the chartered High Courts claim to have

I come now to the method of procedure The alternative method of procedure would be apparently that some indictment or prosecution should be laid in a magistrate's court On that any editor of a newspaper might be called up before the magistrate's court Then there would be an appeal and the case would ultimately come before the High Court I may say that if you took the opinion of journalists in England they would tell you that they infinitely prefer the method which obtains of the matter coming straight up before the High Court I appeal to the opinion, I heard only a few days ago and which I asked permission to cite, of a former President of the Institute of Journalists in England He assured me the journalists at Home would be very loath that that procedure should be changed to the ordinary method of indictment They preferred the High Court taking up the matter *suo motu* and summarily (*brevi manu*) In the great majority of cases I think a warning will be given before any action is taken by the High Court, but it is absolutely necessary that there should be a power to control improper action, not only by newspapers but by individuals I notice that in England the cases are grouped under four categories They are—scandalous attacks upon Judges, causing obstruction in the hearing of a case,—misrepresentation of proceedings,—prejudicing the public for and against the parties That is a very important matter We have heard this morning a case cited in which the local Press created an atmosphere of prejudice against a certain accused person I do not think this House will deny that it is absolutely necessary that there should be a power to put a stop to such proceedings Lastly come improper comments on the proceedings in a pending case In this connection I would point out that there seems to be a tendency in this country to increase the number of cases which may be tried by jurors and the number of districts in which the jury-system is to prevail I certainly hope that any such tendency will have no success until the jury system has shown that it operates towards the suppression of crime in a more satisfactory manner than it does But if there is any such tendency, I would point out that it makes it all the more necessary to have some such measure as this Bill Are you to allow the jurors in a case to have their minds prejudiced by what they see in their local papers ? It is quite impossible to expect a juror not to read an article He takes his paper

and he sees something in which he is going to be highly interested. It is more than human nature to expect that he will not read it, and yet reading that article may prevent him being of any real use to justice in the administration of the case.

There is no truth in the suggestion that this power of punishing a man is obsolete in England. Cases have constantly arisen in the last few years, I have seen many cases myself and I may mention the case of *R. V. Mahon*. I am sure that other members could mention other cases. The courts are not slow to call to account any newspaper which they consider has published any improper article during the pendency of the case. The objections of the last speaker, it seems to me, could be met by an assurance that it is not the intention of the Bill to prevent criticism of cases which are finally concluded.

Another objection raised is that it is only in very serious cases that any action is taken in England. This objection is really the same as the one that the law is obsolete. If the law were to be correctly stated, it is this: for a long time the powers of the court have been very wide, but the courts do not usually take notice of any comment, however improper, which really does not seem likely to have a serious effect on the decision of cases, that is the only sense in which you can say that the law is obsolete. The power has been there, but it has not been exercised.

I notice in the opinions that some journalistic society says that the non-chartered Courts might very well wait until they become chartered High Courts in the process of time. These Courts will never become High Courts in small areas because a certain number of Judges—I believe I am right in saying at least seven—are needed to constitute a High Court. As for the Court with which I have been most connected—the Judicial Commissioner's Court at Lucknow, which it is rumoured will become the Chief Court of Oudh—that Court is unlikely ever to become a High Court, because, unless the boundaries within its jurisdiction are enlarged, it will be improbable that there can be more than five Judges for whom work can be found. Are we then to wait indefinitely for this necessary power?

It has also been said that the matter of punishing improper comments on proceedings might well be left to public opinion. Well, that argument appears to me to be capable of indefinite application. You might say of any crime that it should be left to public opinion. That would be small satisfaction to the party affected. The question to see is whether there is a real danger which has to be met by legislation, and I consider that there is a real danger here. When I was acting as Judicial Commissioner of Oudh, I often had objections by the Courts to improper comments on proceedings, calling into question their fairness. As a matter of fact it was not within my power to do anything. If this Bill had been passed I do not suppose there would have been a single person committed, but the case would have been met by calling the attention of editors and individuals to the fact that they were laying themselves open to proceedings and that they would do well to be more wary in their comments.

**Mr N C Kelkar** My Honourable friend is aware that one Department of Government may share its responsibility with another.

Coming to the Bill itself, my first point is that the Preamble and the Statement of Objects and Reasons are entirely misleading,—not

perhaps the Preamble so much as the Statement of Objects and Reasons. If Government really wanted to do all that they want to do, they should have expressly said so in the Statement of Objects and Reasons, which, however, they have not done. If you look at the Preamble you will find it therein stated

“Whereas doubts have arisen as to the power of a High Court of Judicature to punish contempts of subordinate Courts,

And whereas it is expedient to resolve these doubts and to define and limit the powers exercisable by a High Court and other superior Courts in punishing contempts of Courts, It is hereby enacted as follows”

What is in the forefront of the Preamble is a desire or anxiety to reconcile certain conflicting judgments in the matter of contempt of court. But if you go into the details of the Bill you will find that much more has been imported into the body of the Bill than is vouched for by the Preamble. The more objectionable features of the Bill appear to have been introduced, incidentally or, as it were, without any set or definite purpose. The matters introduced are certainly in excess of the objects which the Bill is intended to serve, judging by the Preamble and the Statement of Objects and Reasons. If there was really any doubt as to the powers of certain superior courts to take cognizance of and punish contempts of court in subordinate court, the Bill should have been confined only to that purpose, in which case, a Bill of that character could not have been objected to by any side of this House. But even that was perhaps unnecessary, because, at present, *ex hypothesi*, the chartered High Courts have got that power. They have got full power in this matter. Whatever view one High Court may express as against another, every High Court has got complete power to do what it likes, and contempt of court not being a statutory matter in its essential stage, the High Courts may go on doing what they like. One High Court may take cognizance of contempts committed in lower courts, while another High Court may not, but the conflict would not be so serious as to necessitate a Bill of this character. As I have said, if the Bill were, however, restricted only to a reconciliation of the conflict between the judgments of the different High Courts, I for one would not have objected to it. The Bill, however, seeks to do three more things, and those are matters which, as I have said, are being imported into the Bill, and which are not vouched for by the Preamble or the Statement of Objects and Reasons. First of all there is the definition of “contempt of court”. Of course, if you introduce a Bill to deal with these things, you might very well say that you cannot do without a definition. But there are definitions and definitions, and as I shall later on point out, the definition, to my mind, is very objectionable. Secondly, there is an attempt to extend artificial and unjust protection to inferior tribunals, and the third matter that is introduced is the revival by enactment of an obsolete jurisdiction and the elevation of what was an exception into a regular rule. Mr Ashworth has pointed out a slight inaccuracy in the statement made by Mr Rangaswami Iyengar that the contempt of court jurisdiction has become obsolete in England. Mr Chetty also has rightly pointed out that that is not wholly the case. It is true to a certain extent, but only in so far as one aspect of the case is concerned. Mr Ashworth, however, contended himself, as must have been observed, with only a reference to proceedings pending before a court. I too admit that in England that jurisdiction has not

yet become obsolete, and courts very often and most vigorously and actively exercise the power of punishing contempts of court, whenever they amount to an active obstruction in the administration of justice itself. But the real point of Mr Rangaswami Iyengar, when he said that jurisdiction was obsolete, was that courts in England very rarely took cognisance of what is called the scandalising of courts, that is to say, offering criticisms, free criticisms, even offensive criticisms upon cases that have passed out of the hands of the court. The need of statutory reconciliation of conflicting case law, it will thus be seen, has been disingenuously exploited as a pretext for widening the scope of the substantive penal law as well as its jurisdiction. All courts, inferior as well as superior, have at present quite ample powers to deal with contempts in the nature of actual obstruction to the administration of justice in pending cases, mark the words, "in pending cases." The Penal Code provides for the punishment by inferior courts of contempts of court committed while the proceedings are going on. And supposing that there were omissions or defects in the provisions on the subject it would have been quite fair and right for Government to amplify the law specifically on the particular point, and there would have been, in my opinion, no objection whatever to thus amplifying the provisions that are already there for that particular purpose. But our real objection is to giving protection to courts after the cases before the courts are decided, for, then, here as in England, they must be left and handed over to general public opinion for criticism. Now, it may be said that even after cases have been decided by courts, and when critics come forward to criticise judgments of courts, the critics may be so unfair as to commit slander or defamation of the judicial officers concerned. Perhaps that is true. But, for malicious defamation and undue scandalisation of judicial officers there is, I think, redress even now under the civil and criminal law of defamation. There is absolutely nothing to prevent a judicial officer from resorting to a civil court or to a criminal court and filing a suit or a criminal complaint, as the case may be, for vindicating his own honour. These officers, I take it, know full well their own rights and they are also exercising them. If you look around the provinces you will find that Government have recently initiated a very vigorous policy of encouraging judicial and other officers to lodge complaints and civil suits against newspaper critics. In many cases, as perhaps the Home Member is aware, Government have been financing these officers to defend their honour and to vindicate their character and even legal assistance is amply given to the judicial officers. If that is the case, if that cannot be denied, I do not see what necessity there is for giving these officers extraordinary and artificial protection of the character which is contemplated by the present Bill. My point against giving this extraordinary protection to judicial officers is that if you do that you take away, in my opinion, the last trace of control in the form of wholesome criticism of the Press and the public upon their judicial decisions. The definition of contempt is too wide as it is worded. It includes matters of contempt and ridicule, even inherent or natural defects in the persons acting as judicial-officers. The wording is

"Anybody who either says certain words or does certain things with the intention of bringing a judicial officer into contempt or the probable consequence of which is to bring the officer into contempt."

There it is contempt of court. But here you will see that sometimes the *press* is subjective with the officer himself than with the critic. However, in cases where judicial officers have been unfairly, in their opinion, criticised by critics they can certainly resort to both the civil and the criminal law for vindicating their honour. The Bombay High Court has already held in one case that the law of defamation and slander almost approximates to the law of contempt of court. Now, judicial officers have under the present law one more thing in their favour and it is this. In cases of contempt, the defendant does not get the benefit of matters of privilege which in the case of private suits or complaints are available to the defendant or the accused. If judicial officers take proceedings under this law then the accused would not, I contend, get the benefit of privilege which he would ordinarily get if it were a mere case of defamation or slander in a civil or a criminal court. I would say, further, that after all both parties to this affair are human. The Judges are human, the critics are human. Now, if the critics are not to forget themselves, should it not be provided that the Judges also should not forget themselves? And equally, by parity of reasoning, if the Judges forget themselves, the critics may also be allowed to forget themselves for a while. The Press of course is the "fourth estate." The Judges form part of one estate of the realm, the Press forms part of another, and I suppose the rights and obligations of one part of the realm may fairly be balanced against the rights and privileges of another constituent of the realm. And therefore my contention is that Government ought not to be so severe against the public press in the matter of criticising judgments in cases where the proceedings are not pending but have been finished.

Now on this point—of scandalizing judicial officers after trials before them are finished, I will just refer this House to one or two instances in point. Of course they are English instances and not Indian instances. They will show, however, that Judges sometimes forget themselves in England also. Take the case of Mr Justice McCardie. The House perhaps is well acquainted with that case. In respect of this judicial performance of Mr Justice McCardie, Mr Massingham, writing in the *Daily Herald*, has criticised the implied censure of the State Secretary for India, indulged in by Mr Justice McCardie, as "a quite gratuitous political opinion pronounced without evidence" and "a judicial offence." I would repeat those words and ask the House to say whether the High Court Judges here also may not forget themselves when performing judicial duties. Mr Bernard Houghton writing in the same paper says that "Mr Justice McCardie has stated the common opinion of the ruling classes in Britain and India which was of course a non-judicial act", and Mr H G Wells writing in the *Westminster Gazette* says that "Mr Justice McCardie pronounced an extra-judicial opinion on the Dyer case and that this pronouncement was a lawless outbreak on the part of the Court." I again repeat the words that this pronouncement was a "lawless outbreak on the part of the court." And yet the High Court in England has not thought it fit to stand up for the dignity of the court and to summon any of these critics for contempt of court. My point therefore is that the dignity of

a judicial court ought not to be overstressed or overstretched where the proceedings have already come to a finish

Now many Members of this House are familiar with the conduct of Judges when they sit on the Bench. Judges often behave in a way as if they were not amenable to any law, as if they are the incarnations of the King who is supposed to do no wrong. Judges abuse their authority and privileged position in three ways at least. They slander and abuse the parties, the court officers, and sometimes even pleaders and counsel, all of whom have practically no protection against the Judges. This is an abuse of their powers. Secondly, they themselves in their personal remarks provoke contempt or ridicule, and are then angry if their critics indulge in a little bit of ridicule in return. Thirdly, Judges are often guilty of non-judicial conduct on the Bench, about which I have already read out to you one or two passages. I just came across something about Justice Darling also, another great Judge of the London High Court, and the criticism that I am now going to read to you is from another Judge of a High Court, Mr Justice Beaman. In a recent issue of the Bombay Law Journal I find this

“The decline of the English courts may be said to have dated from the plebiscite appointment of Lord Darling as the immutable Court jester. It is true that this unenviable notoriety went largely beyond the unfortunate recipient's merits. For, notwithstanding the storm of public criticism with which his elevation to the Bench was greeted, Lord Darling was, I believe, a very good judge, but early having obtained the reputation of a wit, it clung malignantly to him throughout his long judicial career. In earlier days this would not much have mattered. But that career synchronised, unfortunately, with the rapid development of the sensational press. The public only know Mr Justice Darling, as reported for their delectation in the inferior papers. Thus mirrored, posterity, were there no other record, might be pardoned for thinking him a great jester rather than a great judge. No judge can be constantly witty, even facetious, for year after year, and while some of Lord Darling's *mots* were pretty enough, the endless strain of being obliged to furnish the eager reporters and the admiring public with an inexhaustible supply, wore the quality so completely out of them that the reports with the stereotyped (laughter), (loud laughter), simply became boring.”

This is the criticism passed by an eminent Judge of the Bombay High Court upon an eminent Judge of the London High Court and the criticisms appeared in a responsible law journal of Bombay. All that shows, as I have contended, that Judges may forget themselves. They may not know how to behave upon the Bench. They may abuse their powers enormously. I think therefore that the Press, which is the fourth state, should be allowed to forget itself in return now and then. As has already been pointed out by my friend, it has been held by the highest authorities in England that commitment for contempt should not be sought merely for vindicating the dignity or saving personal scandalisation of Judges. I do not want to read some extracts to prove that. I think it will be accepted as a correct statement of the case that after the case is over and proceedings are finished, the Judge and the conduct of the case are practically left to the public to do whatever they like with them. There is, however, one point which in fairness to the Bill I can honestly say is a good point, and that is making the sentence definite for contempt of court. That is, in my opinion, the only redeeming feature of the Bill, the definiteness about punishment to be awarded even by High Courts when they take cognisance



Because as things stand at present if the High Courts take cognisance of contempts of court, there is absolutely no limit to the punishment which may be inflicted upon the offender. In the absence of such provision High Courts could superadd fine and imprisonment and compulsory apology without which no contempt was regarded as purged. This Bill puts an end to it, as it defines and limits punishment. That I say, is a good point about the Bill. For instance, I want severely to criticise a Judge. I can say to myself "Here is six months' imprisonment and Rs 1,000 fine."

**Mr Harchandrai Vrhindas** (Sind Non Muhammadan) Where is Rs 1,000? It is unlimited.

**Mr N. C. Kelkar** I accept the correction, the fine is unlimited, but the imprisonment at any rate is limited. What is the state of things as at present? You criticise a Judge. You think you are right. The court says "No, we hold you guilty." What is the consequence? I may be prepared to suffer a definite penalty and say I am quits with the Judge. But I cannot. But certainly it should be in my power to say that, if the opinion I hold about the Judge's conduct is right. If I were bold enough, if I were public-spirited enough, I would say I would accept jail rather than undergo humiliation. But under the existing state of things the High Court would not let me out of jail though I undergo a definite sentence unless I am prepared to make an apology to the court which in some cases would be a hypocritical and an insincere apology. I do not know what benefit the High Court would receive from an apology like that. But it is in the power of the High Court at present to compel a man to submit an apology. Therefore I say that there is one good point about the present Bill which I certainly like.

**Mr M S Aney** Which you have learnt at your own cost, I believe.

**Mr N C Kelkar** I am not going to indulge in personalities. But my point is this, that this small redeeming feature of the Bill cannot outweigh the other grave defects in the Bill and therefore I am opposing it. The Bill seems to put a judicial officer on a par with the Government themselves for artificial protection, judging by the similarity of wording of the penalties attached to section 124A of the Indian Penal Code. In the case of such trials before High Courts, the trial is by jury. This is the case at least in the metropolitan cities and also in certain other places. But in trials of contempt of courts the intervention of "12 men of ideal commonsense" would be lacking, and the accused will be face to face with a High Court without the assistance of a jury. My point, therefore, is that from all these points of view the Bill is objectionable.

I have only one more remark to make. It is this, that by bringing the judicial officers on a level with Government and defining contempt of court almost on the lines of section 124A, Government are giving individually to each judicial officer the whole of the artificial protection which they claim for themselves as a corporate body. I can understand Government claiming that protection under section 124A. for

themselves, but I cannot understand that excessive protection being given to a judicial officer as if he were an integral part of the sovereignty itself. That is my objection to the Bill. I have been fair enough to state what I think is a good point in the Bill. That, however, is a single point and it cannot outweigh the other, and many disadvantages which are patent in the Bill.

*Several Honourable Members.* I move that the question be now put.

Colonel Sir Henry Stanyon (United Provinces European) Sir, in addressing this Honourable House on this Bill, I wish at the outset to make it clear that I do not commit myself to any opinion on the merits of any one single clause of the Bill. Reading the proposed measure cursorily, it seems to me that there is room for drastic alterations, as has been pointed out by the Calcutta High Court and other high authorities. One detail which I may mention is that the Bill does not contain a very usual power in cases of contempt, namely, a power to drop proceedings upon apology or proper reparation being made. But, this is not the time to consider or go into any details of the Bill. I confine myself entirely to the principle of the Bill. That is the only matter now before the House. Either this House will commit itself to the principle of the Bill or, if it refuses the motion now before it, it will commit itself to another principle, which I shall presently mention. The main principle of this Bill, as I understand it, is to define and restrict the powers of provincial High Courts to punish by summary procedure contempts (a) of themselves and (b) of courts subordinate to them. The words in the Preamble "High Court and other superior Courts" are, I think, misleading. Every court of a Judicial Commissioner mentioned in the Schedule attached to the Bill is a High Court within the meaning of the General Clauses Act. The attitude of this Honourable House towards the principle underlying this Bill ought not to be prejudiced or fogged by any reference to details or by any imaginary pictures as to what a court might do if such and such powers were to be given to it. The High Court in each province, if I understand its position rightly, is the repository of the liberties of the people of that province. That is a trust created by the public, and it seems to me, with all respect for those who may differ from me, that it is a public duty of the first order to maintain the authority of these High Courts in every reasonable way, and to accord to such courts that public confidence to which, by their position, they are entitled. Now the Bill before the House does not aim, in principle, to create any new jurisdiction. It is stated to be a Bill to clear doubts with regard to the scope and incidence of a jurisdiction already existing. I join issue on the statement that this jurisdiction to punish for contempt is obsolete in England. Only last year, just about twelve months ago, two leading newspapers were summarily dealt with for contempt and heavily fined by reason of having made improper remarks concerning a somewhat notorious criminal trial that was then in progress. One of those papers was the *Evening Standard*, I forget the name of the other, and I think the fine imposed in one case was something like £2,000. Now I submit the following questions for the consideration of Honourable

Members Does this House think that the High Court should have power to protect itself from attempts to interfere with or obstruct the due administration of justice before itself? Next if so, does this House consider that such power should be limited to the chartered High Courts only and that the Central Provinces, Oudh and Sind should be without those powers in their respective High Courts? Next, is it or is it not desirable that each High Court should have power, upon similar principles, to afford similar protection to the courts subordinate to it? Finally, has this House any cause to doubt that the High Court in every province can be trusted to use powers to punish contempt summarily with the same careful discretion, restriction to exceptional cases and impartiality with which the chartered High Courts have hitherto exercised such powers and with which other High Courts have exercised powers conferred on them by the Code of Criminal Procedure? Now if this House is of opinion that it is responsible to maintain the authority of its High Courts and to define and clear up and restrict their summary powers to punish for contempt and if this House has confidence in its High Courts that they will not abuse those powers then my submission is that the House should accept this proposal to submit the Bill to a Select Committee. The House will have plenty of opportunity to keep the enactment down to its proper limits when the Bill, as amended by the Committee, comes up for consideration. The law of contempt in India is at present in an uncertain and nebulous state, and requires examination and definition in this Central Legislature so far as that Legislature is competent to do so. The best way of carrying out this examination and definition is by a detailed analysis of such a Bill as that now before the House. This should be done after the Select Committee has dealt with the Bill. I therefore support this motion. I ask the House not to allow its sober judgment of the simple question before it to be led away by any enlargements or exaggerations of the details of the Bill. The Bill will require careful examination and probably very drastic alteration, but the principle which we are up against is this—are we going to support the authority of our High Courts? Remember our High Courts are not an executive irresponsible to this House—they are the trustees of public liberty. Are we going to support the authority of these High Courts and give them the power to keep themselves above contempt in matters where the administration of justice would be obstructed notoriously in any pre-judgment by the Press of a case *sub judice*—that is a usual form of offence? Or are we going to commit ourselves to this view that Judges do not always behave themselves judicially on the Bench or the High Courts are not to be trusted or to an exaggerated opinion which I have read that every petty Judge and Magistrate will be able to repress the liberty of criticism and speech? These are all exaggerations. I ask the House not to pay any attention to them but to choose between two principle. Are we going to authorise and support our High Courts in their prestige or are we going to deny them that support upon the ground that we cannot trust them? Which will be the better choice for the country? I strongly support the motion: and I recommend, if that motion commends itself to this Honourable House, that the name of Khan Bahadur Wahi Muhammad Hussanally be added to the Select Committee.

**Sir Chimanlal Setalvad** (Bombay Nominated Non-Official) **Mr President**, I cannot but regret that during the course of this debate observations have been made calculated to lower the dignity and authority of our courts. I venture to think, **Sir**, that this Assembly should be very jealous of the reputation, the independence and the authority of the judicial courts in this country and as democratic institutions and representative and popular government advance, it is all the more necessary that the courts should be independent and should be respected by the general public. And from that point of view, as I have said, I cannot but regret the observations that have been made to-day which are calculated in the mind of the public to lower the dignity and the authority of our courts.

Now, **Mr President**, even those who have opposed this Bill to-day have been compelled to acknowledge that it is absolutely necessary for the free and independent administration of justice that, while a case is *sub judice*, no discussion and criticism of that case either in newspapers or otherwise should be allowed. If that principle is once conceded, **Mr President** you will see what the Bill proposes to effect. At present the High Courts have the power to deal with contempts of this character, namely, the interference with the administration of justice while a case is *sub judice* before it by criticisms, for instance, in the public press. How equally necessary, **Mr President**, it is that similar interference with justice while a trial is taking place in a mofussil town should not be allowed. For instance take a criminal trial taking place in the Bombay High Court Sessions. While that trial is going on, no newspaper can offer any criticism likely to interfere with the administration of justice, but supposing that very trial or similar trial were held in Ahmedabad or Poona, then, as the law at present stands, it is doubtful whether the High Court can deal with a contempt of that character. Is it not therefore, **Mr President**, necessary and advisable that the law should be put beyond all doubt and that power should be vested if necessary in the High Court to deal not only with cases of contempt with regard to trials before it but with regards to trials in courts subordinate to the High Court.

**Mr President**, while I am of the view that it is necessary to legislate in order to remove all doubt as to the present powers of the High Courts in this matter, I confess that the Bill as drafted is a very badly drafted Bill indeed. All that was necessary to my mind was to have enacted a section or two merely saying that the High Courts shall be deemed to have always had the power of punishing contempts of subordinate courts, without attempting to define "contempt", leaving it to the High Courts to decide what was contempt according to the established traditions and practices of the High Courts. In that case you would have avoided all the controversy that has taken place to-day. If you had merely said that the High Courts shall be deemed to have had with regard to the subordinate courts the same powers that they have as regards themselves in this matter, thereby removing doubts at present thrown upon their powers to deal with contempts of subordinate courts, there would have been no trouble and you would not have had to define the extent of their powers. They are there, and you merely remove the doubts. Then, secondly, if you wanted to place the Judicial Commissioners' Courts and some other Courts on the same footing as the chartered High Courts, you could have done it, by a section. **Mr President**,

I venture to say therefore that this Bill if drafted as is suggested above would have contained only two sections, and that would have excited much less controversy than it has done to-day. I cannot help thinking, with all deference to the draftsman of the Bill, whatever the department concerned is, either the Legislative Department or the Home Department, that the Bill is very badly drafted indeed, and I do hope that when the matter goes to the Select Committee the Bill will be transformed. As I have said, the Bill, through trying to carry out a principle of which I approve, tries to carry it out in a form which is certainly not acceptable to me. But I do think that the matter is one which requires legislation. The matter is one which requires to go to the Select Committee where the Bill may be put into proper form, and that it would not be advisable for this Assembly to throw out the Bill at this stage when it has been conceded practically on all sides that the evil requires legislative remedy. The only question is the proper form in which to do it, and that is a matter which, I submit, Sir, can be threshed out in Select Committee.

**Pandit Motilal Nehru** (Cities of the United Provinces Non-Muhammadan Urban) Sir, I rise to make a humble effort to pour oil over troubled waters. It seems to me that while speeches have been made from opposite standpoints, the object of the speakers is one and the same. I will not trouble the House by a speech on the merits of the Bill generally, but I shall simply make an offer based upon the suggestion which my friend the Honourable Sir Chimanlal Setalvad has made. The view that he has taken of the drafting of the Bill and of the provisions of it is the view that I also take of the Bill. I do believe that it is very badly drafted. Now, although the Preamble to the Bill and the Statement of Objects and Reasons deal with one aspect of the Bill, we find, when we read the Bill, that there is another aspect also. In fact it is impossible to say which of the two constitutes the principle of the Bill. We find that section 2 has a definition of contempt and provides a punishment for the offence which is substantive legislation. Then, we find provisions as to how to deal with cases of contempt. Now, Sir Chimanlal Setalvad has suggested that the only object aimed at is what is disclosed by the Preamble and the Statement of Objects and Reasons, namely, that the High Courts of Judicature in India which are established by Royal Charter should have jurisdiction to take cognizance of cases of contempt when committed against their subordinate Courts and that superior Courts of final appeal which to all intents and purposes exercise the jurisdiction of the High Courts in the various provinces in which they are established but were not constituted by Letters Patent, should also have the same power to deal with cases of contempt whether committed in respect of these superior Courts or Courts subordinate to them. If that was the only object, then, as pointed out by Sir Chimanlal Setalvad, it could be attained by just two simple sections. The first removing the doubts which exist as to the jurisdiction of the High Courts established by Royal Charter and the second section giving the same powers to courts which are not so established, for instance, the Judicial Commissioner's Court in Sind and other provinces. That is declared to be the only object of the Bill, at any rate should be the chief object if not the only object of the Bill. But the attempt to attain the impossible namely, to define contempt of court, which has not yet been defined in any part of the world, is, I think, a fruitless attempt. This new definition

cannot be allowed to stand or to be accepted by the House even at this stage of the Bill, because, as I have said, it is very difficult to accept the principle contained in clauses 3 and 4 which lay down that the High Courts shall have the same jurisdiction in respect of subordinate courts as they have in respect of contempts of their own authority if it is to be taken with the new definition. I therefore make this offer that, if my Honourable friend the Member in charge of the Bill will agree to eliminate the new offence which he has created by clause 2 and agree to take the Bill to the Select Committee in order to secure the two principal objects which are mentioned in the Preamble and the Statement of Objects and Reasons, I would beg the House not to oppose the Bill at this stage. If however my friend the Member in charge has any objection to that course and if he thinks that clause 2 contains the principle of the Bill as much as any other clause, then in that case I shall be bound to oppose the motion.

The Honourable Sir Alexander Muddiman (Home Member) Sir, I should like to make my position perfectly clear as I think I made it in my first speech. I there laid down three questions of principle involved in the Bill. One was that doubts should be resolved. The second principle was that the courts, not now empowered, which are in the same position as High Courts, should get the powers of a court of record. And the third principle was that the power of punishment of the High Court should be restricted to six months. I made it clear that I did not desire to restrict the jurisdiction. Those are the only three points of principle in the Bill and those, I understand, are the points on which my Honourable friend is willing to meet me. But he must listen for one moment if he will be so good and bear with me on one point. A fierce attack has been made on the drafting of the Bill. I should like to know what kind of attack would have been made on it if we had produced a Bill and circulated it and said that we would leave vague what contempt of court means. I can imagine the outcry. Vague—doubtful—ambiguous—no guide to the Courts—I can hear it all. I am delighted to find that the House is willing to do without this definition. But this is not the view we should have got if we had not tried to define contempt of court. I am perfectly prepared to leave it as proposed. Nothing would have given me greater pleasure than to have done so from the beginning. I do not think the House has done less than justice to the draftsman, but we need not be at loggerheads on questions of principles. While recognising how great would have been the criticism if I had brought in a Bill containing no definition of contempt of court, I welcome the decision of the House that none is necessary and I accept the decision of the House that we should not define it.

Before I conclude, however, I must make one observation. In the course of the debate on the Bill one Honourable Member has thought fit to cast aspersions on the whole body of Magistrates in this country. He has observed that they are appointed by the Executive Government and are mere agents of that body. He has denied them the right to be called Courts. Now, I would like to know in what country in the world Magistrates are not appointed by the Executive Government? I assert that he has done a great injustice to a devoted body of men and to a large body of his own countrymen who carry out magisterial functions with honesty, care and discretion. Sir, I am sorry if I become heat in this matter. It is not right, it is not just, to attack the public

discharge their public duties on the whole admirably in India in the magisterial courts I cannot pass over such an attack in silence To return to the matter before us Sir, I welcome the suggestion of my Honourable friend the Pandit that he will not object to the main principles I therefore hope the House will allow the reference to the Select Committee to be carried, and I will only say I have been asked to add to that Committee, if the House approves, the name of Khan Bahadur W M Hussanally

**Mr N M Dumasia** May I suggest the name of Sir Chimanlal Setalvad ?

**Mr R K Shanmukham Chetty** May I suggest the name of Pandit Motilal Nehru ?

**Sir Chimanlal Setalvad** If the Home Member will put in Pandit Motilal Nehru's name and spare me I shall be grateful

**The Honourable Sir Alexander Muddiman** I shall be very glad to add Pandit Motilal Nehru's name I understand the names to be added are Khan Bahadur W M Hussanally and Pandit Motilal Nehru

**Mr President** The question is that the names of Pandit Motilal Nehru and Khan Bahadur Wali Muhammad Hussanally be added to the Select Committee

The motion was adopted

**Mr President** The question is

" That the Bill to define and limit the powers of certain Courts in punishing contempt of courts be referred to a Select Committee, consisting of Mr H Tonkinson, Mr L Graham, Sir P S Sivaswamy Aiyer, Khan Bahadur Maulvi Ghulam Bari, Colonel Sir Henry Stanyou, Diwan Bahadur T Rangachariar, Mr A Rangaswami Iyengar, Mr K C Neogy, M N M Dumasia, Sir Hari Singh Gour, Mr S C Ghose, Mr N C Kelkar, Pandit Moti Lal Nehru, Khan Bahadur W M. Hassanally, and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be six "

The motion was adopted

*Tuesday, 1st September, 1925*

# THE SIKH GURDWARAS (SUPPLEMENTARY) BILL

The Honourable Sir Alexander Muddiman (Home Member) Sir, I move

“ That the Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925, be taken into consideration ”

The object of this Bill, as I explained when I moved for leave to introduce, is to validate certain provisions of the Sikh Gurdwaras Act, an Act which has been passed by the Punjab Legislative Council and contains certain provisions which, in our judgment, are beyond the legislative power of that Council. I need not, I think, detain the House by going through the individual provisions. It will be sufficient for me to point out that some of the provisions at any rate confer jurisdiction on the High Court. We have always held, and we have been so advised, that that is an exercise of legislative power beyond the jurisdiction of the local Legislative Council. It is for that reason I am moving this Bill to-day for consideration.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions Non-Muhammadan Rural) Sir, I have great pleasure in supporting the motion made by the Honourable the Home Member which is now before the House. I congratulate the Government of India and the Government of the Punjab, and particularly His Excellency Sir Malcolm Hailey on the passing of the Gurdwara Act, and I also congratulate my Sikh friends who have been fighting for Gurdwara reform since 1920. Now, Sir, during these five years, there were three attempts made to pass a Gurdwara Act. The first attempt was made in 1921, when the Government proposed a certain measure, but finding that it did not satisfy Sikh opinion, they dropped it. The second was in 1922, when the Government passed a Gurdwara Act in the teeth of the opposition of the Sikh and Hindu members, and the Act remained a dead letter. Sir Malcolm Hailey saw the wisdom of accepting the main principles for which the Sikhs contended. He saw the wisdom, in spite of some of his previous utterances, of yielding to Sikh public opinion in the matter of the religious reform and management of Sikh Gurdwaras, and he most certainly deserves our congratulation upon the course which he has pursued. The Sikhs have had to carry on a terrible struggle during the last five years to achieve the result which they have now achieved. It is true that some of them have expressed the opinion that the Bill has a few shortcomings. It is also true that there are others like my friend on my left, Baba Ujagar Singh Bedi, who are not satisfied with all the provisions that have been embodied in the Bill. But as my Honourable friend Baba Ujagar Singh Bedi has said, all is well that ends well, and the fact that the Sikh, Hindu and Mussalman Members of the Punjab Legislative Council unanimously accorded their support to the Bill is a fact which has its own importance. Therefore, Sir, I heartily join with my friends in congratulating His Excellency Sir Malcolm Hailey upon the wisdom which he has shown in accepting the Bill and in seeing it through the Council.

There is one circumstance, however, to which I wish to draw the attention of the House. In the course of the debate on the Bill more than one Member of the Punjab Legislative Council expressed the hope that the Government would release those Sikh prisoners who had been imprisoned for having taken part in the Gurdwara reform movement and those who were under trial. No one has laboured to bring about the passing of the





Committee publicly accepted the Act, and passed a resolution saying that it would work the Act wholeheartedly. The leaders who have been undergoing trial in the Lahore jail for the last two years have also made a similar declaration.

The *Tribune* of August the 5th, says

"We understand on very good authority that almost all the Sikh leaders now confined in the Lahore Fort are agreed that Sikhs should wholeheartedly work the Sikh Gurdwaras Act, 1925. They have now actually passed the following resolution without a single dissentient voice

'Resolved that in spite of certain shortcomings in the Sikh Gurdwaras Act, 1925, we appeal to the Panth to work it out wholeheartedly. At the same time we wish to make it perfectly clear that we are not prepared to come out by giving any undertaking as a condition of our release.'"

Therefore so far as the promise to obey the law is concerned, which is the first condition laid down by His Excellency Sir Malcolm Hailey, you have got it in the resolution passed by the leaders. They have appealed to the Panth to work out the Act wholeheartedly. I submit, Sir, that that secures the main part, the substantial part, of the conditions which the Government laid down. When you have got a unanimous resolution of the leaders appealing to the Panth to work out the Act wholeheartedly, I submit that that condition has been fulfilled.

Now, as regards the second condition, that they should give an undertaking that they will not seek by means of force, or show of force, or by criminal trespass to gain control of possession of any shrine or the property attached to it or its endowments, I submit the Government should waive it. When the Sikh leaders promise to work out the Act wholeheartedly, that implies that they will act under the law. Whatever shrines or Gurdwaras they took possession of in the early days of this movement have been secured to them by the legislation which the Government have accepted. If there was any irregularity or any violation of the law involved in the procedure adopted by any Sikh in the early part of the campaign, that has been fully condoned by the Government by the Act which has been passed. There is no reason to think now that there will be any such violation resorted to and to ask these leaders of Sikh public opinion to sign an undertaking that they will not act against the law is, I submit, unnecessary. It is not only unnecessary, it is unjust to them, it is humiliating to them. This is not the impression of any one single man. It is the opinion of the community as a whole. I would draw the attention of the House and of the Honourable the Home Member, to the resolution passed by the Shiromani Gurdwara Prabandhak Committee. They have passed a resolution saying that the conditions imposed are unnecessary, that the conditions imposed for the release of prisoners are unnecessary, unjust and derogatory, and they hold that no self-respecting Sikh can give the undertaking asked for. The leaders, therefore, are placed in this position. They have declared their acceptance of the provisions of the new Act. They have advised the Panth to work out the Act from which it may be assumed that they will work out the Act when they come out. They have at the same time made it clear that they cannot purchase their release by giving such an undertaking as is asked for in the second part of the conditions laid down by the Punjab Government. The House will remember Sir, that these leaders include men of high positions in the Sikh community. One of them, Sardar Bahadur Mehtab Singh, was a Government Advocate for many years, and Deputy President of the Punjab Legislative Council for a long time. He and others carried on an agitation in order that they might get a control over their Gurdwaras, they have now obtained that control. They made great sacrifices in order to gain that control, and now

when the Gurdwara Act has been passed, the hand of friendship ought to be extended to the Sikhs in all sincerity and warmth, so that the object which His Excellency Sir Malcolm Hailey has repeatedly expressed to be the object of his Government, and which His Excellency the Viceroy said was the object of the Government of India, may be fully achieved. So long as these leaders are not released, we may take it that the Act will not receive a fair trial. It is not likely that the Sikh community will go forward to work the Act while the leaders who fought for it, who worked for it, who sacrificed themselves for it, are still in jail. The House is aware that these leaders were arrested two years ago. For full two years they have been undergoing harassing trial. Nearly 450 witnesses have been examined. The trial has cost a great deal of public money, and these gentlemen have been locked up in the Lahore Jail during all this time. Now that the Act has been passed, if the Government desire to obliterate all bitterness of memory, I submit a clear course is open to them. The leaders have publicly declared that they will give their wholehearted support to the law. That means that they will obey the law which has been laid down in the Gurdwara Act. Reason demands that the Government should now revise their opinion. In the speech which we had the privilege to hear on the 20th instant, His Excellency the Viceroy said:

‘ During the whole course of the events and controversies which have engaged public attention and sometimes, I regret to say, disturbed the public peace in the Punjab, the Government of the Punjab and my own Government have been animated by a constant and single desire to promote by every means in our power a stable, an equitable and a friendly settlement of all the matters in issue, which shall do justice to the claims of all the interests legitimately concerned and which in particular, shall restore the traditional relations of good understanding and mutual confidence between Government and the Sikh community. It is my belief that those relations, glorious in war and ‘ no less renowned ’ in peace, whatever misunderstandings have arisen and whatever unfortunate incidents have occurred have never in truth suffered more than a partial and temporary disturbance, and I welcome every prospect of their complete renewal and consolidation ’.

Now, Sir, I plead that this complete renewal and consolidation demands that these prisoners should be released and that the trial should be ended. As both, His Excellency the Viceroy and His Excellency Sir Malcolm Hailey have fully acknowledged the value of the friendship of the Sikhs, it may seem unnecessary to remind this House and the Government of what Government owe to the Sikhs. But perhaps it will not be out of place to quote in this connection a passage from a speech of Sir Michael O'Dwyer when he was Governor of the Punjab. Speaking in 1917 Sir

public numbers of my Sikh friends came to see me not with sorrow but with a feeling of pride at the heroic sacrifice, and it is a matter of history that from that day the Sikh eagerness for recruiting received its strongest impetus. That, gentlemen, is the true spirit of an indomitable race which fears only disgrace but is proud of an honourable death, that is the spirit which has enabled your committee not only to fill the gaps made by the war, but to provide thousands of fighting men over and above, that is the spirit which in the concluding words of your address will enable you to keep on sending 'men to the army in ever increasing numbers till victory is achieved'."

That was said in 1917. A year later when the war was over, Mr Lloyd George, speaking as Prime Minister, of the services of Indians in the House of Commons, said

"We have had four years of great brotherhood. Let it not end there."

I say, Sir, to the Government, let not the camaraderie which has grown up among the Sikhs and our British fellow subjects not merely during four years of war but for decades, for more than a century, end where it stands at present. Here is a case in which the Sikhs, owing to their desire to obtain control over their religious endowments, have carried on an agitation for years, they have made great sacrifices, thousands of their men have gone to jail, thousands have suffered in many other ways. At the end of four years the Government have recognised the justice and wisdom of acceding to the principal demands for which they have been fighting. When the Gurdwara Act was passed, one would have expected that all the grateful recollection of the camaraderie between the Sikhs and the English would enable the Government to declare that there was an end to all the differences between them and the Sikhs, that all those prisoners who are now undergoing imprisonment and have not been guilty of any violence or incitement to violence, would be released, and that the case which has been dragging its miserable length for the last two years, during which period the flower of the Sikh community have been confined to the Lahore Jail would be ended. That was what was expected. That is what we still expect of the Government. The Government have a great opportunity of showing that their friendship is real, that their declaration of a desire to restore normal and friendly relations with the Sikhs is real, and I submit, Sir, that this opportunity should be utilised. I again thank the Government, I congratulate them, on having acceded to the demands of the Sikhs to the extent they have. But let them recognise that until these leaders are released, the Act will not have a fair trial and that the atmosphere in the Sikh community will not come back to normal. That would not be a desirable state of things. The Government will lose nothing by being generous. The Government have before them the resolution passed unanimously by the leaders that they will work the Act wholeheartedly. Let them accept it as a sufficient assurance on the part of these leaders that they mean to give their best support to the Act, and remembering all the camaraderie they have had with the Sikhs, let them not seek to humiliate their leaders by insisting upon their giving an undertaking that they will not behave as criminals. Let the Government treat them as gentlemen and they will find that they are true gentlemen, and in that case the Government will have achieved an object on which they might well be congratulated. If, on the other hand, the release does not come about, if the trial drags on its length, what will be the result? I have appeared in this case for some of the gentlemen who are being prosecuted. As I have said between 400 to 500 witnesses have been examined. The case has gone on for two years. These men have practically suffered imprisonment for 2 years. They may suffer imprisonment for another year. They v be

kept in prison for another five years. But I know them. I can say that they will not give that undertaking which they consider will be humiliating to them. And what is the task, in such a position, of a friend, of a true friend, who recognises that it is a friend whom he asks to give such an assurance, who has been a comrade in the field, has been a loyal and steadfast supporter of the Government? I say, the duty of such a friend is to say, "Very well, I thought you would not take it amiss, but if you do not like to give the undertaking which you have been asked to give, we accept the assurance which your public declaration, your past deeds, which your history, which the past history of your community, give us. We release you and we wish you and ourselves to be once again friends, comrades, fellow-subjects, working for the good of the Empire, working for the honour of the King-Emperor and for the good of this ancient land." If the Government will adopt such an attitude, there will be a feeling of satisfaction throughout the country, not merely among the Sikhs, but throughout the country among all classes and communities which inhabit this land, and it will redound entirely to the credit of the Government. I make a strong and earnest appeal to the Honourable the Home Member to represent this matter to the Government in its proper light, and to see that the passing of the Gurdwara Act bears its expected fruit, that it is not made fruitless like its predecessor, and that the relations between the Government and the Sikhs are again restored to their normal condition, redounding entirely to the credit of the Government.

**Lala Duni Chand** (Ambala Division Non-Muhammadan) Sir, I rise to support the motion to consider the Gurdwara Bill. So far as the provisions of this Bill are concerned, they are only of a validating and supplementary character, and there is nothing to take exception to them. I generally associate myself with what has been said by my Honourable and distinguished friend Pandit Madan Mohan Malaviya in the most beautiful words which he alone can command. I want to utilise this occasion not so much for supporting this motion, which I could do by merely voting, but for a different purpose. There is no doubt that the Sikh problem had been a disturbing factor in the situation of the Punjab for the last 3 or 4 years. So far as the solution of the problem is concerned, undoubtedly the Sikh community has made the greatest contribution. They have added by reason of their sacrifices a glorious chapter to their own history. At the same time it is also a fact, and to this extent we should be grateful to the Punjab Government, that the Government of Sir Malcolm Hailey has made an earnest and serious effort, though after four years, to solve this problem. It is also a fact that the sister communities in the Punjab, the Hindus and the Muhammadans, have fully co-operated with the Sikh community in solving this knotty problem. Both inside and outside the Punjab Legislative Council the Hindus have gone in certain ways even out of their way in supporting the Gurdwara Bill that has been recently passed in the Punjab Legislative Council. That really shows a feeling of nationalism in the Punjab. The Punjab as a whole thought it its duty to solve the problem. It was with that sense of responsibility that all the Hindus and Muhammadans came forward to support the Sikhs in the solution of the problem. It was expected under these circumstances that the Government would be generous enough, and would be ungrudging in their attitude towards the solution of this problem. It was expected by all of us, as the saying goes, that the Sikh community would soon reap the full fruit of the sacrifices which they have made. But

an obstacle has been created and I think the Government are responsible for that. My own conviction is that unless and until the Government release unconditionally every Sikh prisoner, there can be no solution of the problem. Now the Punjab Government is insisting upon the unreasonable condition of taking a written undertaking from the Sikh prisoners before they can release them. So far as the Government's own attitude with reference to the Gurdwara Bill is concerned, that really makes it unnecessary to insist upon any such written undertaking. The whole Sikh community and the Sikh leaders, including those leaders who are in jail, have made it emphatically clear that they are prepared to carry out the Gurdwara Act and make it a success. When the attitude of the whole of the Sikh community and of the Sikh leaders is clear there are no reasons why Government should be so unreasonable as to insist upon that undertaking. A resolution has appeared in the *Tribune* of the 5th August 1925 which was passed by the Sikh leaders inside the walls of the jail, that they have decided to work the Sikh Gurdwaras Act. When even a formal undertaking has been given by the Sikh prisoners, there are no reasons why the Government should insist upon a written undertaking. But what is the object of Government in asking for it? Government have been always suffering from a certain kind of disease. What is that disease? That is the fetish of prestige. Government know that the Sikhs have accepted the Gurdwaras Act and that they are going to work it, but at the same time Government want to maintain their prestige though in this case it was quite unnecessary. I should think that in view of the sacrifices that have been made by the Sikh community and by their venerable leaders, the Government should have been more generous than they are inclined to be.

I cannot let this occasion pass without bringing one fact to the notice of this House. A most saintly character in the person of Sardar Kharak Singh who is revered not only by all the Sikhs but also by all good Hindus and by all good Muhammadans is still in jail. With regard to this gentleman a Resolution was passed about eighteen months ago, immediately after the opening of this Assembly, and Sir Malcolm Hailey, who was then the Home Member, promised to consider the case of this gentleman. Full 18 months have passed and Government have trodden down upon the feelings of the entire Sikh community and upon those of other patriotic people. Can Government hope to ease the situation by keeping men of the character of Sardar Kharak Singh in jail? A splendid opportunity had arisen for Government to release all those people who have suffered in their cause. It is not too late for Government even now to mend matters. I wish very much that the Government may take a more generous attitude in this respect, and by releasing unconditionally all the Sikh leaders, solve the problem. I resume my seat in the hope that this wish of mine will be considered most sympathetically.

**Mr M A Jinnah (Bombay City Muhammadan Urban)** I do not desire, Sir, that on this occasion we should strike any note of a jarring character. The Gurdwara Bill has been passed with the entire approval of the Sikh community. I do not wish here to apportion the credit. I have no doubt that both the Government and the leaders of the Sikh community have worked with one desire to bring about a settlement. Sir, the question before us to day is this Bill. I am sure the House approves of this Bill. Therefore, so far as this Bill is concerned, there is

against it and we congratulate Government upon having brought about this settlement and we willingly approve of this Bill. Therefore, there is only one matter which it is necessary for us to represent to Government, and my Honourable friend the Home Member, who I know has taken the keenest and most earnest interest in bringing about this settlement will consider it favourably. I also know, Sir, that His Excellency Lord Reading showed the greatest sympathy and anxiety to bring about an honourable settlement with the Sikh community. That being so, we here wish not only to bless this Bill but we rejoice that this great problem which affected the Punjab has been solved.

Now, Sir, the question which remains to be considered—and I hope the Honourable the Home Member will disregard any remark which has been made by any previous speaker which might have provoked him—is, that Sir Malcolm Hailey in his speech desired to follow a procedure which laid down a condition of release of certain prisoners, which condition has already been read by my Honourable friend Pandit Madan Mohan Malaviya. Now we also know, and I think Government will not challenge the statement which has also been read by my Honourable friend Pandit Madan Mohan Malaviya, that the Sikhs themselves, and the Akali leaders, have passed a Resolution and that Resolution clearly shows that they are quite willing to work this Act. I will once more read that Resolution in order to concentrate the attention of the House on that Resolution.

“Resolved that in spite of certain shortcomings in the Sikh Gurdwara Act of 1925, we appeal to the Panth to work it wholeheartedly. At the same time we wish to make it perfectly clear that we are not prepared to come out by giving any undertaking as a condition of our release.”

Now, Sir, the condition of their release which is desired by the Government of the Punjab, as stated by Sir Malcolm Hailey, is—I once more bring this to the notice of the House—as follows.

“The Punjab Government will release (or will withdraw from the prosecution of) any person (other than those persons who have been convicted of, or under trial, for crimes of violence or incitement to such crimes) who has been convicted by the criminal courts, or is under trial in such courts, on charges arising out of the recent agitation in the Sikh community, or on charges involving offences against the Criminal Law Amendment Act.

Provided that such release will be conditional on such persons signing an undertaking that they will obey the provisions of the law recently enacted securing to the Sikh community the control and management of shrines and their endowments and will not seek by means of force, or show of force, or by criminal trespass to gain control or possession of any shrine or the property attached to it or its endowments.”

Sir, I appeal to the Honourable the Home Member, I appeal to the Government of the Punjab and I appeal to the Government of India, to consider whether they think that, in view of the facts which I have already placed before this House, it is desirable that you should insist upon this condition? I am sure that if the Honourable the Home Member will carefully consider the matter he will agree with me that in view of what I have stated, in view of the position taken up by the Akali leaders and in view of the position taken up by the entire Sikh community with regard to this Gurdwara Act, there is not the slightest apprehension that any of these men who are now in prison are likely to oppose this Act or likely to resort to any violence or force and destroy the effect of this Act. Well personally, Sir, I am convinced that none of them will resort to such a position or such an action. Then, may I appeal to Government not to insist upon this condition? I do expect on this occasion the Honourable the Home Member

to give some expression of opinion in order to meet the situation. The feeling is that if you now insist upon this condition it can be construed to mean—I do not suggest for a single moment, Sir, that it is the intention of Government—that Government desire to humiliate the Sikh leaders. I hope that the words of His Excellency Lord Reading which were uttered in this House in his address to the Members of the Legislature recently will be remembered, and, if you really wish to give effect to those expressions and those desires, then I appeal to you not to insist upon this condition.

**The Honourable Sir Alexander Muddiman** This debate has turned from the subject matter of the Bill to a matter which is certainly analogous to that subject matter but is certainly not in issue on it. I understand that, so far as the Bill is concerned, the House endorses its provisions. It could hardly fail to do otherwise in the case of a Bill which His Excellency Sir Malcolm Hailey described as “a Bill promoted by the Sikhs themselves and accepted in this House by other communities with a cordiality which has obviated the necessity of a single dividing vote. It is freighted with the hopes of Sikhs for their future tranquillity and the religious security of their community. It is launched amid the fair auspices of good-will from others, but its success depends on the spirit and the temper in which Sikhs themselves approach the administration of its provisions.” Now, the debate which has taken place in this House has taken two different channels. I will deal with the last speaker first. He charged the Government with lack of imagination. Sir, I regret I cannot charge him with lack of imagination. He has too much indignation. He talked of an apology. There was no question of apology in the undertaking (*Mr. C. S. Ranga Iyer* “It is worse than an apology”) He talked about melancholy meanness—and that Sir, in reference to His Excellency the Governor of the Punjab that devoted public servant who has brought to a triumphant conclusion the difficult Sikh situation, which has been acknowledged by the House at large to have been the result of great statesmanship and of months of work, and he talked about melancholy meanness! That, Sir, is neither fair nor just.

**Mr M. A. Jinnah**. It is eloquence.

*An Honourable Member* It is absolute madness.

**The Honourable Sir Alexander Muddiman** I now turn to the point that has been raised in the other speeches, I refer particularly to the speeches of my Honourable friend Pandit Madan Mohan Malaviya and my Honourable friend Mr Jinnah. They at any rate saw no melancholy meanness in the action of the Government. They were aware that on the day after this Bill was passed, His Excellency Sir Malcolm Hailey came and announced to the assembled Punjab Legislative Council terms which were received by the country and the Press generally as being liberal and generous. We are now told that these terms are humiliating. Now, Sir, whatever may be said on the merits as to the imposing of conditions, I cannot agree for a moment that the conditions were humiliating. Mr Jinnah I think put it much more rightly when he said, “I do not contend that the conditions are humiliating. I say that they may be regarded as humiliating by those who are required to comply with them.” There is, Sir, nothing humiliating in requiring one who has broken the law to say that he will refrain from committing further offences. You may not like having to do it, but there is nothing humiliating, degrading, in it.



*An Honourable Member* What would you have thought if you had been imprisoned ?

*The Honourable Sir Alexander Muddiman* If I was imprisoned and could get free by signing an undertaking of this kind, I should be out before tiffin (Laughter)

*Pandit Shamlal Nehru* Have you inquired whether the prisoners have not given an undertaking to work the Act ?

*The Honourable Sir Alexander Muddiman* Some of them have, and they are out

*Pandit Shamlal Nehru* . Have they been released ?

*The Honourable Sir Alexander Muddiman* Certainly those who have given an undertaking

Sir, a moving appeal has been made to Government It does not need the eloquence of Pandit Madan Mohan Malaviya to convince the Government of the services of the Sikhs We know perhaps as well as the Honourable Pandit does what those services have been It does not need a Muhammadan gentleman to draw our attention to the services of the Sikhs, we know perhaps as well as Muhammadans what those services have been But, as I have said, a moving appeal has been made, and although it is not possible for me to give any answer to it,—it is clearly impossible for me to do so—His Excellency the Governor of the Punjab, who has throughout this matter shown the utmost desire to restore peace and order, may be relied on to deal with that appeal in a sympathetic spirit in so far as circumstances permit him to do so I will say no more on that point, and I trust the House will put the crown on the great work which has led to the Sikh Gurdwaras Act by passing this Bill without further discussion. (Applause.)

*Mr President* The question is

“ That the Bill to supplement certain provisions of the Sikh Gurdwaras Act, 1925, be taken into consideration ”

The motion was adopted

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had given notice, which they know perfectly well this House would have carried. They withdrew the Bill—at any rate they did not proceed with it. Sir, I was not to be daunted in my course of action. The Criminal Procedure Code was on the anvil for amendments, and I sought that opportunity to introduce the amendments when the Criminal Procedure Code was under discussion. But the Honourable the Home Member then took the objection that that Chapter was not under amendment and sought the ruling of the Chair that the amendments were out of order, and when that ruling was given I had to seek the more dilatory course which is open to us non-official Members of introducing this Bill, balloting for it and getting such time as we can, which His Excellency the Governor General is pleased to allot for non-official business.

Sir, I introduced this Bill in January 1924 and got it referred to a Select Committee in September 1924. The Select Committee has now carefully investigated the provisions and I am thankful to the Honourable the Home Member, my friend, Colonel Crawford and my friend, Mr. Tonkinson, who though they were opposed to the principle of the Bill at the time of reference to Select Committee gave the Select Committee valuable assistance in the shape of suggestions in order to improve the drafting, wording and substance of the Bill. Sir, the Bill as amended by the Select Committee is now before the House. I ask that the House should adopt the Bill as it has been reported on by the Select Committee.

I may say at once there are four matters which I seek to introduce in by this Bill. In the first place I propose that an unlawful assembly should not be dispersed by the use of fire-arms except in the last resort, that is to say, only if other means of dispersing the unlawful assembly fail or are likely to fail should resort be had to the use of fire-arms.

The second principle which I seek to enact in this Bill is that before fire-arms are used to disperse an unlawful assembly warning should be given to the assembly.

The third thing which I seek to bring in is that as soon as the disturbance is over and as soon as the assembly has been dispersed successfully then a full report of the circumstances leading to the use of fire-arms should be made by the person responsible for directing the use of fire-arms.

The fourth and most important thing in my view in this Bill is the freedom to any individual injured or to any relations of persons who have been killed if they think fit, to complain and take action against the unlawful exercise of the power.

This Bill is confined to the case of the use of fire-arms—it does not extend to the case of use of force or military force, for which provision already exists in the Code. The use of fire-arms is a very dangerous thing. That is admitted in all civilised countries. As is pointed out in that famous report made by three learned legal luminaries, Lord Bowen, Sir Albert Rolit and Lord Haldane (then Mr. Haldane) in the Acton Hall Colliery Dispute

“ A soldier can only act by using his arms. The weapons he carries are death: they cannot be employed at all without danger to life and limb, and in these days of improved rifles and perfected ammunition without some risk of injuring distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interpose and under such grave conditions ought of course to be the last expedient of the civil authorities ”

Sir, great care has always been taken in western countries and we cannot have a better example than England, whom Providence has brought into contact with our country, in dealing with this subject. There are some people who believe west is west and east is east, and probably in the matter of the dispersal of unlawful assemblies in the east there are some people who take the view that you must create terror, that you must create a moral effect in the atmosphere of the country, that you should strike terror into the hearts of the people by using unnecessary force. When I say unnecessary force, I mean force that is not necessary for the immediate surroundings of the case. Whenever force is used which is not required for the immediate surroundings of the case I say, Sir, it is unnecessary force, it is inhuman to use force in order to create a moral effect in the country or in order to deal with situations in other places and in order to strike terror into the hearts of the people by using force and killing them and maiming them. I say, Sir, that it is inhuman, and if such action can be justified on the floor of this House or anywhere else the persons who seek to justify such action stand self-condemned before the bar of humanity and before that Higher Power who controls all of us.

Sir, the actions at Jallianwalla Bagh, I was surprised to read in the judgment of a Judge presiding over an English Court, had the approval of the military officers. I was shocked to read in that judgment that there were military officers belonging to our Army who approved of that action. Sir, I hope it was not true, though I know there have been people who have made a hero of the author of that famous tragedy. It is unnecessary for me to dwell very much on that. The Government of India luckily for us had risen to the occasion. They would not yield to the temptations which were laid in their way and they issued a Resolution which was quite worthy of the Government of India, and we are thankful to them for taking such a statesmanlike action in that matter. But, Sir, we must avoid opportunities for the repetition of such occurrences. Now, the provisions which I have sought to introduce are the provisions which are already contained in the circulars issued by my Honourable friend's Department from the year 1893, if not earlier. I hold in my hand by the courtesy of the Home Department the circulars issued by them. There is one circular issued by them No 54583-Police, Calcutta, dated the 28th November 1893, there is another circular which was issued by them, dated 4, Police, 426-434, dated 30th July 1894, another circular is No 951, dated 18th November 1902, which was issued to Local Governments. What is it, Sir, that the Local Governments are enjoined by these circulars to do? They are told that within the territories under their respective control, they must take care

“To ensure that the fullest warning is given before any order is given to fire on a mob, and that neither troops nor police should fire in such cases except in the last resort”

So that the two principles for which I am contending have been accepted by the Government for a long time, namely, you should not resort to firing except in the last resort, and you should not proceed to fire without the fullest warning being given. Sir, that is repeated over and over again. And, Sir, there are Queen's Regulations in England and have the force of law. I see the same provisions are enacted in section 8, paragraphs 62

to 68 of the Queen's Regulations of 1892 Sir, they have to very carefully inquire before stringent orders are given to fire According to these orders, "the Commanding Officer is not to give the word of command to fire unless distinctly required to do so by the Magistrate" That is the third of the propositions which I am trying to enact in this provision, unless distinctly required to do so by the Magistrate, nor until in conjunction with the Magistrate he has explained to the people that if the troops are ordered to fire, their fire will be effective That is the warning which is given there. So that I have the high authority of the Queen's Regulations which have the force of law for two of the provisions which I seek to enact I have the high authority of the Government of India circulars for the other provisions in the Bill which I seek to enact.

Sir, for the last of them, namely, freedom and liberty to complain by persons injured It is only, Sir, in this country that liberty is needed to complain of a wrongful action That is, section 132 of the Criminal Procedure Code, as it stands, requires that before action can be taken against any officer employed or against any person who had used unnecessary force or who had acted unlawfully in dispersing an unlawful assembly, before any such person can invoke the aid of the criminal court against any person who had used unnecessary force, a bar is imposed against such person He must get the sanction either of the Local Government, or in certain cases, of the Governor General Sir, I can quite understand the great value which people who are employed in this unpleasant task attach to human life I do not think that there is any human being who really indulges in taking the life of a fellow human being No doubt, the officers are actuated by the highest sense of duty, but like other people who act from a high sense of duty and who take certain risks, these officers ought also to take certain risks When a soldier goes to the field, he takes a certain amount of risk which is attendant upon his duty Now, this has been an effective protection, a real protection, because the Local Governments or even the Governor General will be naturally loath to give sanction to prosecute their own officers who perform duties which pertain to the Local Governments It is not human to expect, however high placed a statesman he may be, that the Governor of a Province or the Governor General of India would give sanction for prosecuting officers who have dispersed unlawful assemblies Now, on the other hand, Sir, people deserve protection from acts of that kind in the name of law and order That there have been such cases, nobody can deny Can there have been a worse instance than the Jallianwalla Bagh incident? Did the Governor General give sanction to prosecute any or all the persons who were concerned in that tragedy? Was there a more deserving case than that, Sir? The fact is, that there is an effective bar against prosecuting such persons who have used unnecessary force in the name of law and order That is why, I say, Sir, that you should give freedom to persons who feel that they have been unlawfully treated in the name of law and order, they should have complete liberty to go to the courts and say that they have been unlawfully treated and that they should be given redress Why should any person stand between justice and individuals? That is the object Therefore, Sir, I attach the greatest importance to that clause It will be an effective protection to individuals, it will be an effective protection to the public, and that is

why I say that only in cases where death has occurred or where a person has been injured seriously the parties must be given the liberty to invoke the aid of the criminal courts without the previous sanction of the Local Government concerned. If the Government had accepted my suggestion to have a Director of Public Prosecutions in this country if we had an independent Director of Public Prosecutions in this country I should have been quite satisfied to leave the matter in his hands. But we have not got any such official here, an official who is independent of the Executive, who can see whether certain prosecutions should be instituted or not. So long as we have not got any such institution I think it is but right that individuals should have the liberty to go to the courts established by the Government of this country to seek redress for wrongs done to them. I therefore ask, Sir, that in the last clause of my Bill that this bar should be removed so that any person who has been unlawfully injured may have the right to invoke the aid of the criminal courts. These are the principles of my Bill. I rest for the principles of my Bill on the Queen's Regulations and on the Government of India circulars.

Now, it is said and in fact Colonel Crawford did say, it is all right, we may issue Executive instructions but why make these a provision in the law? May I ask him why is it a provision of law in the Queen's Regulations in England? (Hear, hear) Sir the executive orders can be disobeyed, and will be looked at indulgently by persons who have to work in an executive capacity, but legal provisions cannot be ignored. There are courts to guard the public against infringement of the regulations. The existence of these executive orders did not prevent tragedies like those in Amritsar being committed, whereas, if we had provisions like the one I seek to place on the Statute-book, I am sure officers would act with greater care and caution in using the extreme power which is vested in them. Sir, it may be said that I am trying by this measure to weaken the hands of the Executive. That is very far from my intention. It is a question of choice. Which is the greater evil, is the question. Is it right to leave such unfettered powers in the hands of officers who have to take the lives and limbs of His Majesty's subjects? Should you give them unrestricted powers or restricted merely by executive orders which have really no force? The principle is admitted, that there should be executive orders to this effect, that is the weakness of the opponents of this measure. They admit it. "Oh yes, I quite agree with your principles, your intentions are good, we will issue these instructions." Do you issue them with the intention that they should be obeyed or disobeyed? If the intention in issuing them is that they should be obeyed, then why not make it a legal obligation and let an officer take the legal consequences of his exceeding those instructions or violating those instructions? So that, the principle being admitted, what is wrong, I ask, in making it a legal obligation? If you make it an administrative obligation, why not make it a legal obligation? My Honourable friend, the Home Member, in his Minute on the Report of the Select Committee, says this which I must read. He says

"Moreover, a statutory inhibition of this kind will always render the question in issue—could the assembly have been otherwise dispersed?—I think a matter very difficult for the courts to deal with."

May I ask him, what is the answer to the wording of section 129, even

as it is Does not that issue arise under that section 129 as it is ? May I read it for his benefit ? This is the law as it already stands It runs

“ If any such assembly cannot be otherwise dispersed and if it is necessary for the public security that it should be dispersed, the magistrate of the rank who is present may cause it to be dispersed by military force.”

I adopt that very thing When I say that, if the assembly cannot be otherwise dispersed, has not the court got to decide that issue ? Does not that issue arise ?

The Honourable Sir Alexander Muddiman (Home Member) Certainly it does arise It arises with reference to the question of the use of force, not of the particular kind of force.

Diwan Bahadur T Rangachariar If it arises with reference to the question of military force, that includes fire-arms If already under the law the question arises under section 129 with regard to the use of military force, which includes fire-arms, I am only re-enacting that portion with reference to the use of fire-arms He stated it as a very grave objection to my proposal because “ a statutory inhibition of this kind is a matter very difficult for the courts to deal with ” It may be that the courts are constituted to deal with much more difficult questions than this, the courts have to grapple with them Therefore, Sir, I have great faith in the courts of this country, I have great faith, even in the Magistrates of this country, because they dispense justice in the presence of parties after hearing the parties Although there may be exceptional cases, I, as a lawyer who has practised both in the Magistrates' courts and the civil courts, can bear testimony to their honest discharge of their duties People have great faith in your Magistrates And therefore I am not much alarmed by the issue raised by the Honourable the Home Member in that connection

Sir, another objection which he has taken is this He says—I am not as merciful as I pretend to be—he says

“ As regards the actual provisions, I still do not understand why it should be thought necessary to lay down that fire arms are not to be used unless the assembly cannot otherwise be dispersed.”

He repeats what he said on the floor of this House

“ The authorities in charge may be of opinion that it might be possible to disperse the crowd by a bayonet charge Are they to be forced to try a bayonet charge with all its attendant risks and dangers before fire arms are used ? ”

Sir, not having seen a bayonet charge, I can only imagine what it is likely to be I am sure my Honourable friend, the Commander-in-Chief, has taken part in many a bayonet charge But I don't know, Sir, that in dealing with an Indian crowd, armed with brickbats and *lathis* you will require

The Honourable Sir Alexander Muddiman What were they armed with in Kohat ?

Diwan Bahadur T Rangachariar Well, we all know Kohat, and Kohat is so close to the manufacturing centre of fire-arms And Kohat is peopled by people who are quite different from the rest of India

The Honourable Sir Alexander Muddiman The Indian Law applies to Kohat

Diwan Bahadur T. Rangachariar Sir, of all the riots that have taken place in this country, my Honourable friend is able to quote Kohat. I am sure my Honourable friend will recognise that the ordinary weapons which these crowds have are either brickbats which they have picked up on the roadside or *lathis* which they carry about with them. Sir, in dealing with an Indian crowd of that sort are you going to have a bayonet charge? Are they a disciplined body that you are going to march on them with fixed bayonets? But, Sir, I would prefer that for if once you show your determination, if once the opposing force shows its determination to march into the crowd, I am sure the crowd will disperse in no time. If they do not, what happens? It is the rioters alone that will be injured. Whereas here, by the use of fire-arms, you will be able to fire from a safe distance, with your fifty Gurkhas on an eminence, you will be at a safe distance, so that you do not get intermixed with the crowd. What happens? Innocent men, women and children, who are merely spectators get killed. That happened in Madras, Sir, when the Chulai riots took place. A woman was struck, a boy was struck. That happened in Madura by the use of fire-arms. They can be used from a safe distance, whereas if you have a bayonet charge, you march into the crowd.

Sir P S Sivaswamy Aiyer They might be overpowered.

Diwan Bahadur T. Rangachariar I am sure my Honourable friend will agree with me at least that in Madras they are likely to show their backs as soon as you show your determination to subdue them. I cannot speak with authority as to how a Punjab crowd would behave. However, I think even they would show their backs rather than undergo a bayonet charge. But I am now dealing with the ordinary cases that occur. So that by that means you will be really affecting the lives and limbs of the rioters themselves for the bayonet charge will go direct on them. Then, you cannot plead. Oh, the attitude of the crowd was ugly, therefore an order was given to fire. Or the policeman's turban was knocked off. Therefore an order was given to disperse. I am not imagining now. I have seen such reports. But from a safe distance to use these deadly precise weapons is a dangerous thing. Therefore, Sir, my justification for restricting my Bill to the use of fire-arms is this. Why do the King's Regulations provide all these regulations for the use of fire-arms? I will read paragraph 63 and paragraph 64—

“ Paragraph 63—All commands to the troops are to be given by the officer. The troops are not, on any account, to fire excepting by word of command of their officer, who is to exercise a humane discretion respecting the extent of the line of fire, and is not to give the word of command to fire, unless distinctly required to do so by the Magistrate.”

Paragraph 64—In order to guard against all misunderstanding, Officers Commanding troops or detachments are, on every occasion when employed in the suppression of riots, or enforcement of the law, to take the most effectual means, in conjunction with the Magistrates under whose orders they may be placed, for explaining beforehand to the people opposed to them that, in the event of the troops being ordered to fire, their fire will be effective.”

and so on and so on.

The King's Regulations are confined to the use of fire-arms, which I have read. So also, Sir, I ask that there should be some regulation regarding the use of fire-arms.



As I have already said, I need not dilate upon it. I therefore say that the objection taken by my Honourable friend the Home Member in his minute that I am enacting something which might place the crowd in more danger than they already are in is not a correct argument. Nor is his other argument correct. My Honourable friend accepts that a warning should be given. In fact, Government themselves brought forward a measure, as I told you, Sir, in 1921, that there should be a legal provision for giving warning. My Honourable friend says that the rule which I seek to impose is absolute. What I say is

“The person who directs that the assembly shall be fired on shall, before so doing, warn the assembly by such means as may be available that unless it disperses, it will be fired on.”

What is wrong in that? On the other hand, it is less strong than the English provision. It has been brought in the form of the Government provision itself which they brought forward in 1921. I do not see the objection to clause 2 which my Honourable friend takes.

As regards clause 3, my Honourable friend says

“I see no great objection to clause (3), which requires a statutory report, but I would here again prefer it not to be confined to the use of fire-arms.”

I would gladly welcome a measure, if the Government bring it forward, to make it obligatory upon all persons who disperse an unlawful assembly, where death or grievous hurt is caused, to make a report. I would gladly welcome such a measure. But I could not accept the suggestion of the Honourable the Home Member because it would go beyond the provisions of my Bill. My Bill is confined, as the Preamble was confined, only to cases where an assembly is dispersed by the use of fire-arms. That is why I could not accept the suggestion of my Honourable friend. I am sure he realises the difficulty which I was in. On the other hand, I would gladly welcome a measure if the Government think it necessary that there should be not only report in these cases but in every case where force is used for dispersing an unlawful assembly. There is nothing to prevent the Honourable the Home Member doing so. He can quickly amend the Criminal Procedure Code by bringing in a short clause which we will accept.

As regards clause (4), my Honourable friend says

“Finally, clause (4) is far too wide in granting a right to make complaints without the sanction of any public authority.”

As I have already stated, I attach the greatest importance to this clause. We must have freedom of complaint. I have restricted it as carefully as I can. I have restricted it only to persons who are aggrieved by the act, not to every individual in the street. I think they should have the right to complain. That is an issue which I propose to stand by. I cannot withdraw it or yield on the matter. Unless an officer can be appointed called the Director of Public Prosecutions to whom we can entrust this, till that stage comes, I think it necessary to have this provision.

I do not think there is anything new in my Honourable friend Colonel Crawford's minute which I need deal with. He thinks, of course, that the whole law should be left as it is and that there should be no revision. Sir, the House by sending the Bill to the Select Committee on the last occasion by a vast majority have affirmed the principle that the law should not be left as it is and needs revision. Sir, I stand by that position. I

hope the House will stand by that position. The House has already affirmed that principle and I ask the House to affirm that principle once again that the law should not be left as it is but must be remedied and improved in the way the Select Committee have asked us to do.

**The Honourable Sir Alexander Mudduman** Sir, I intervene at this early stage in the debate in order to explain one or two matters. I am opposing the consideration of this Bill, but I am not at this stage going to make a speech. I dealt with the Bill very fully on the motion that the Bill be referred to a Select Committee. On that occasion, owing to a misapprehension, many Members who desired to speak on the Government side were unable to do so as the question was put the moment I sat down. I desire, therefore, to raise a debate on this motion for consideration in order that other Members who were not given an opportunity to speak on that occasion may have an opportunity of speaking on this occasion. I must, however, say a few words on the points brought forward by my Honourable friend. As I said on the previous occasion, the object of my friend's Bill so far as it aims at securing moderation in the use of force commands the sympathy of all reasonable men. It is of the greatest importance to the citizen that fire-arms should be used, or any form of force should be used, with great discrimination. On the other hand, it is equally important to the citizen that when an occasion arises for the use of force that force should be used in a prompt and effective manner. Those are propositions that I do not think any one is likely seriously to dispute. The issue between my Honourable friend and myself except in one particular is not a very large one. He lays down in his Bill certain rules which are rules of law. That is to say, they will be applied as other rules of law are. Now, the use of force is a matter which in my judgment is independent of the actual form of the force. It seems to me impossible to draw different rules for the use of different forms of force. There is no use saying, "You may use gas, you may use explosive bombs, but you must not use fire-arms." I understand my Honourable friend's point. It is that the maximum use of force should be controlled by special rules. But when he confines this matter to fire-arms, he is merely evading the main point. The true criterion in the use of force for dispersing crowds is independent of the actual form of the force. That I state as a very general principle. If you are to amend your law you should amend it with regard to the use of all force and not with regard to the use of fire-arms only. There is no special rule of law in England that I am aware of to regulate the use of fire-arms. My Honourable friend says, "Why do you object to my embodying in the law rules which you yourself as an executive authority lay down?" The answer is a very simple one. My Honourable friend's Bill lays down certain provisions. He says

"Fire arms shall not be used unless such assembly cannot otherwise be dispersed and unless a Magistrate of the highest class present specifically authorises such use."

I need not read the provisions in full. He has read them sufficiently to the House. He says that in each and every case where you may use fire-arms, you have to prove that you complied with all those conditions. Some of those conditions, I suggest, are not possible of compliance. My Honourable friend has said that crowds in India are not usually armed with anything but *lathis* and brickbat and such other material objects which they may pick up at the place of occurrence. Speaking generally—very generally,

indeed,—that is correct. On the other hand, it has to be remembered that the forces of law and order in many parts of India are very limited in numbers and if my Honourable friend imagines that ten policemen can, say on the occasion of a Hindu-Muhammadan riot, such as I have myself witnessed, or when confronted with a direct attack, preserve order by means of their ordinary *lathis*, he is entirely under a misapprehension. These policemen would be torn to pieces. They have been torn to pieces. Does my Honourable friend wish the use of fire-arms to be restricted in a case like that where you have ten policemen facing mobs excited by religious or other susceptibilities and in a state where nothing can possibly save the situation but a sudden and a striking exhibition of force?

**Diwan Bahadur T Rangachariar** Then you can use fire-arms

**The Honourable Sir Alexander Muddiman** Subject to your restrictions

I have argued this point at great length before and I do not propose to go into it again. I will just reply to one or two of the points made by my Honourable friend. He said on the question of sanction which is a point he has pressed so strongly, he is not prepared to allow any public servant who performs this distressing duty—it must be a distressing duty to every humane man—he is not prepared to allow the protection which the law now gives, that is, that a prosecution shall not be possible without the order of the Local Government or the Governor General. He would, however, be good enough to permit that to be done if we had the sanction of the Director of Public Prosecutions. Now, I may tell my Honourable friend this. I have some experience of and I have spent some time in the office of the Director of Public Prosecutions in London and if my Honourable friend imagines that the Director of Public Prosecutions is not in intimate touch with the executive Government in England he is under an entire misapprehension.

**Mr A Rangaswami Iyengar** Why do you object then?

**The Honourable Sir Alexander Muddiman** I do not object. My Honourable friend is objecting. In other words, the sanction of the Director of Public Prosecutions in England is the sanction in the last resort of the executive Government in England which we have here directly. My Honourable friend is presumably satisfied that he must give up this clause. But I do not suppose he will.

Now, as I have said, I shall have an opportunity of speaking again in this debate and I will not further take up the time of the House. I oppose this motion for the reasons I have given in my minute of dissent.

**His Excellency the Commander-in-Chief** Sir, I am afraid I cannot claim, like my learned friend, the Mover of this Bill, that I am, like him, a mild Madras Brahmin. I can, however, entirely associate myself with him by saying that I am a man of peace, and it is certainly my wish that rules and regulations should be drafted with the sole idea of humanity and the avoiding of any inhumanity.

I have listened to the speeches with the greatest interest, and on behalf of the soldiers whom I have the honour to represent here I will attempt to express their views regarding this proposed legislation which may so deeply concern them. I will begin by saying that we

soldiers, certainly all thinking soldiers, never for a moment forget the fact, which is so often not realised by others, that we are first and foremost citizens of the British Empire. There is no title of which any soldier is more proud than that of "*Civis Britannicus Sum*", a title of which we can never be deprived. We are citizens first and for all our lives, and as soldiers we are the servants of our King and Empire.

I rather gathered from the speech by the last Honourable Member that he is not prepared to extend to soldiers the epithet which he was kind enough to confer on the Honourable the Home Member of being "amiable", and I presume I am included in the category of "soldiers". In fact I think the last speaker possibly regards soldiers as "the brutal and licentious soldiery", as in days gone by they were at times described.

Mr C S Ranga Iyer I do not want to interrupt His Excellency, but I wish to say that I quite agree that he is an amiable man and so are they all, all amiable men.

His Excellency the Commander-in-Chief I hope the days have gone by when anybody could regard soldiers,—and in this I speak in the broadest sense of soldiers of both British and Indian services—as brutal and licentious. We, unlike the Germans, have no military caste in our service. We are, as I have said, citizens, some of whom have devoted the whole of our lives, and others only a certain number of years, to the profession of arms. But I think possibly that even those who have not devoted very many years to soldiering, may, on account of hardships they have undergone, be classed among those married men, regarding whom you probably all know the riddle "Do married men live longer than single ones?" The answer is, "It seems longer." Should that apply to some of us who are blessed with a single wife, I often wonder what the feeling of those others must be, who are more liberally endowed in that respect. But whether we have devoted the whole of our lives or only a certain portion to soldiering, we realize that it is our duty to ensure the safety of our fellow-subjects, and to see that as far as in us lies every man shall reap where he has sown, to carry out his avocations, whatever they may be, and that the subjects of the British Empire shall be able to go wherever they like and do what they wish upon their lawful occasions. In carrying out these duties, it will probably be realised that soldiers are often faced with very difficult and very disagreeable duties. I remember well, it is many years ago now when I was Adjutant of my regiment and Commandant, a Pathan sowar coming up to me and saying "*Sahib, zama hiss shaukh mishta che par yekhna shpa mane, de sentri de har de para,*" which, our friend Nawab Sir Abdul Qayyum, if he were here, or Captain Ajab Khan would tell you means, "I can work up no enthusiasm for doing sentry duty on cold winter nights." My friend went on to explain how doubtless there were others who had a *shaukh* for such duties and he hoped I would arrange accordingly. But sincerely as you will all sympathise with that young man regarding sentry duty on the frontier on cold and dirty nights, and realise that that is a disagreeable duty, yet I can assure you that it is nothing compared with the disagreeable and distasteful duty to which soldiers

may be called on to perform in aid of the civil power. We realise that when we are called out for such duties, it is possibly as a last resort. It is most probably only done, when the civil authorities feel that the situation is getting out of their control, or has already done so. Consequently we realise that the action which may have to be taken will be of a drastic nature, and also it may possibly be against our own friends and relations. But what is the most difficult part of it all, is that notwithstanding this, the officers and non-commissioned officers have the whole time the feeling at the back of their minds that, whatever they do, it is very unlikely that they will be credited with doing right. In fact it is almost certain that they will be credited with doing the wrong thing. If the officer, on arrival, finds the situation very serious and at once orders drastic action, he will be held up to execration by arm-chair critics who can so easily come to the right conclusion after the action is over. If, on the other hand, he takes an optimistic view of the situation and thinks drastic action is not necessary, and he perhaps gives the order for a few shots to be fired over the heads of the crowd—which I may say in passing is really the very worst and most cruel action that can be taken because the ring-leaders in front escape and innocent people behind may be injured—if he takes that action, he is likely to be called a poltroon and a fool, and may possibly be turned out of the service. You will realise I know that it is very unlikely that any two situations with which officers will be faced will be exactly similar so that it is very difficult to formulate any regulations which will govern all contingencies. I will, however, with your permission, read an extract from the instructions which have been issued relating to martial law which have been drawn up for the guidance of officers.

“When an officer is required by a magistrate, or himself determines that a serious situation arises when there is no magistrate within reach, to disperse an assembly by force, he will, before taking action, adopt the most effective measures possible to explain to the people that, if necessary, fire will be opened, and that if fire become necessary, the fire of the troops will be effective. If he is of opinion that it is necessary to fire, but that the fire of a few men will attain the object of dispersing the assembly, he will personally give the command to a few specified men to fire. If a greater effort is required, he will personally give the command to one of the sections to fire.”

Further rules, Sir, are contained in these instructions, which are based upon long experience and upon the highest conception of the sanctity of human life. These rules I have summarised generally as follows

- (1) When a Magistrate determines that force is necessary to disperse a crowd, he calls upon the Officer Commanding to do so,
- (2) The Officer Commanding the troops thereafter is empowered to take such action as he deems necessary for this purpose. He is the sole judge of what action to take and what weapons to use,
- (3) He is bound to use the minimum possible force for the purpose,
- (4) No *statutory* warning is laid down previous to the opening of fire,

- (5) He is responsible for the safety of his command , and
- (6) The officer cannot be prosecuted for his action, except with the sanction of Government

The Honourable Mover of this Bill referred to the King's Regulations, stating that under them it was essential that permission should be obtained from the magistrate present before fire was used. I am afraid that the Honourable Mover was not quite accurate in that. What the King's Regulations say is

"The reading of the Proclamation under the Riot Act is important, both in conveying a distinct warning to the crowd, and as involving the legal consequence that those who do not disperse within one hour are guilty of felony, but it must be understood that to justify the exercise of military force in the prevention of serious outrage and damage to persons or property, it is not necessary to wait for the Proclamation to be read."

Further it goes on.

"When thus requested it will be the duty of the officer to take such military steps as in his opinion the situation demands. In doing so he will have absolute discretion as to the action to be taken, and as to the arms, including fire arms, which the troops shall use, and as to the orders he shall give, including the order to fire."

From the instructions which I have mentioned, Sir, which have been issued in this country, I think it will be realised that there are three main principles which emerge

- (1) The first is that the Officer Commanding the troops, on being called out in aid of the civil authorities, will have upon him the sole responsibility for the action he takes, and will be responsible for the results,
- (2) He is definitely responsible that he uses the minimum force necessary,
- (3) He is held definitely responsible for the safety of his own command

I am sure that Honourable Members will at once realise that it must often require great discretion, sound judgment and often much self-control on the part of the Officer Commanding on the spot, in possibly very difficult circumstances, to reconcile what may seem the conflicting parts of those three instructions, but underlying them all is the one main principle, which is that the officer who has been called upon to bring his troops out to assist the civil power is personally responsible for the action he takes, and he knows that the responsibility is his alone. It seems to me, Sir, that the imposition of that sense of personal responsibility upon the executive officer is probably the best possible safeguard that can be devised for ensuring that troops called out to aid the civil powers shall perform their duties to the best interests of the public. It ensures that the action taken shall be effective, and on the other hand that no greater force shall be used than is necessary, and avoids the risk of unnecessary casualties.

I will turn now, Sir, to the proposals under the present Bill. Under this Bill three main clauses emerge

The first is that the Magistrate will decide on the weapons to be used, that is, the responsibility for the particular kind of force is thrown on him.

The second clause which affects us, soldiers, is that a warning must *invariably* be given before fire is opened

And the third is that an officer may be prosecuted for any offence committed by him in this connection without Government sanction

I will take these three points in turn

(1) It will be seen that this, the handing over to the civil authorities of the discretion as to what force is to be used, whether fire-arms are to be used or not, at once divorces from the executive officer on the spot the definite responsibility which is at present imposed upon him. In other words, it reduces him to the position of a machine, and from a machine you can expect nothing but mechanical results. Further, what I think is vitally important is that, if you take away from him the responsibility for the methods employed, you certainly cannot hold him responsible for the results. In fact, it seems to me these proposals have in them two main objections. The first is that it lays upon the civil official, who can hardly be expected to have the same experience as to what the results of the use of different weapons will be, a responsibility which is now imposed upon the soldier, who from his training must be supposed to be the best judge of what the *results* of any particular action will be, whether fire-arms, bayonets or whatever it may be. Further, I would like to say this, which I do with the greatest diffidence, because I know how extremely hard it is to prove, but our experience, the experience of many senior officers in the Army and in many lands has been that as a rule it is the experienced soldier who has been the restraining influence and not the inexperienced, very often puzzled and harassed civil official. I would refer to one case that certainly came to my notice in Upper Egypt when the present Adjutant General in India, Sir John Shea, was in command there and was called out to aid the civil powers. He with great self-restraint was able to use very much less force than the civil authorities on the spot urged him to use. Then again during the last year alone, we at Army Headquarters have received grateful thanks from Allahabad, Delhi and Kohat for the restraint which our soldiers had shown during the riots in those places when they were called upon to help.

I will turn now, Sir, to the second point, *i.e.*, laying down that a definite warning must *invariably* be given before fire is opened. That order apparently would not apply to a bayonet charge. We realise from what I have said and from what the Honourable Member has also said, that the present regulations do compel an officer to give warning *whenever it is possible to do so*. I am doubtful if the framers of this Bill can have really thought the matter out to its logical conclusion when he recommended that on every occasion without any exception whatsoever, firing must not take place without due warning. To insist upon such a proviso is one of the most inhuman actions that I can possibly imagine. Let us take the case of a small military detachment suddenly faced with a maddened and furious mob at close quarters. The mob suddenly takes charge, rushes down upon what may be a large number of civilians and on the troops themselves. The officer in command has two alternatives. If he fires he breaks the law. On the other hand, he may order a bayonet charge. If his force is fairly large, a bayonet charge will certainly inflict a most terrible amount of damage and injury on the crowd. If on the other hand he has a very small force, it

is likely after inflicting serious injuries on the rioters to be overwhelmed, even if the mob were armed with *lathis* and other such weapons as they can get hold of. Then again, can anyone here see a crowd advancing on their homes, in which their wives and children are with torches and fire-brands, or on their mills or factories? The troops might be two or three hundred yards off, ready to disperse the crowd by firing but unable to do so because it is impossible to give any warning. To give a warning at such a distance would be an absolute farce. I cannot imagine my Punjab friends saying on such an occasion

“ *Ghar phuk tamasha vekh Bhulai din awēgar* ”

They know there would be no “ *bhulai din* ” at such a time, and they would be the first to urge that fire should at once be opened. That would be the only humane way of dispersing a mob, possibly with one or two shots.

I come to the third point, Sir, to permit an officer to be prosecuted without Government sanction. I feel sure that every one of my colleagues in the Assembly will have the greatest sympathy with us, soldiers, when we are called out to perform the most difficult and disagreeable duty which can be placed on us. I am sure you realise that we do utterly abhor being called out in aid of the civil authorities. And in extending to us your sympathy I will also ask you to give us your help. I feel confident that the best way you can give us your help is not to tie our hands. It is the man on the spot on whom the final responsibility must lie. Do not tie his hands. Help him where you possibly can, guide him with instructions, but do not lay down definite hard-and-fast regulations by law under which he would be liable to suffer penalties if he gave the order to fire when it was impossible for him to do otherwise. Remember, he is not acting as a private individual. He is acting as a servant of the Government and it is up to Government to give him full measure of support. If he has at the back of his mind the thought “ Whatever I do I am liable to be prosecuted, my future is at the caprice of any individual who may wish to bring an action against me, ” if he cannot devote his whole attention and energies to the matter in hand, he is not likely to do his work with that complete detachment of mind which is essential.

Diwan Bahadur T Rangachariar Sir, with reference to His Excellency the Commander-in-Chief's remarks, may I ask him whether paragraphs 63 and 64 of the King's Regulation, section 8, are in force?

His Excellency the Commander-in-Chief That has been entirely revised.

Diwan Bahadur T Rangachariar Are they different from what they are now?

His Excellency the Commander-in-Chief Yes, Sir.

Diwan Bahadur T Rangachariar May I have a copy?

His Excellency the Commander-in-Chief Certainly.

Colonel J D Crawford (Bengal European) Sir, in rising to oppose the consideration of this Bill I do so because I believe it is a Bill which is thoroughly bad in practice and in law. I am not myself a legal expert and I leave that point to be developed later by those who are, but it seems to me very difficult to understand who is responsible, for instance,



in the case of stating that fire-arms shall not be used unless such assembly cannot otherwise be dispersed. It appears to me that is a responsibility placed on the officer and you cannot very well do anything if he says, "In my opinion it could not otherwise be dispersed", I do not quite see what action is open to you except to say, "Well, you are the only person who was there to give an opinion". The same applies of course on the question of a warning.

"The person who directs that the assembly shall be fired on shall before doing so warn the assembly by such means as may be available."

He, the individual in charge, is left to be the judge of what means were available. I quite appreciate, Sir, the humane motive prompting Diwan Bahadur Rangachariar when he brought in this Bill, and I presume that the motive which he really had at heart is the saving of human life on such occasions. Well now, Sir, in my opinion the effect the clauses which he proposes to add to the Criminal Procedure Code are likely to have is the very reverse effect. Personally I consider that the Criminal Procedure Code as it stands, and I would like to draw the attention of the House to it, is sufficient and adequate for our purpose. Section 130 says

"When a Magistrate determines to disperse any such assembly by military force he may require any commissioned or non-commissioned officer in command of any soldiers in Her Majesty's Army or of any volunteers enrolled under the Indian Volunteers Act, 1869, to disperse such assembly by military force and to arrest and confine such persons, etc., etc."

I will not read the rest of that section. There the responsibility is with the Magistrate in ordering the officer to undertake this unpleasant duty. And then we go on to paragraph (2) of that section

"Every such officer shall obey such requisition in such manner as he thinks fit, but in so doing he shall use as little force and do as little injury to person and property as may be consistent with dispersing the assembly and arresting and detaining such persons."

In the law as it stands to-day, we have therefore a provision that an officer shall act on the orders of the magistrate and that he shall only use such force and the minimum of force as may be necessary to carry out his duties. That is exactly what my Honourable friend Diwan Bahadur Rangachariar tries to make a little bit clearer in his Bill. The next section enjoins on an officer in the case of no magistrate being present the important duty of undertaking the use of those powers if he considers it necessary, it also enjoins on him that, while he is acting under this section, if it becomes practicable for him to communicate with the magistrate he shall do so and shall then obey the instructions of the magistrate as to whether he shall or shall not continue such action. The point that I wish to emphasise is that the feeling of the ordinary officer in the ranks at the moment in dealing with this unpleasant task of the dispersal of unlawful assemblies and in protecting innocent citizens is one of "tails you win, heads I lose," and when officers have that feeling it is not possible to expect them to act with that due sense of responsibility which they should exercise on a very important occasion of this nature. May I say that my Honourable friend Diwan Bahadur Rangachariar appears to be lacking for once in that imagination which is so strongly evident on the Benches on this side of the House.

Mr. C S Ranga Iyer He has transferred it to you (Laughter)

**Col J D. Crawford** May I draw a little picture for his personal enlightenment as to what I would feel if called upon in similar circumstances ? We will say that troops had been called out to disperse a riot in the town or village where my Honourable friend lives and under the orders of the magistrate the main streets have been cleared and I am in charge of a patrol patrolling some of those main streets that have been cleared. As I pass a side street in which the house of my Honourable friend is situated, I notice a crowd of people with *lathis* attacking my Honourable friend and endeavouring to burn his house. I wonder to myself what I am to do under this new law which he has just brought in. If I go at once to his rescue—of course personally I would go at once to his rescue as he is a friend of mine and I would risk my skin and everything for him, but every one may not do so—I might think I have not the order of a magistrate to fire, am I to push off and try and find the magistrate ? Also I have no time to give warning—the conditions are now serious and if I wait any longer he would be killed and his house burnt. Must I warn the crowd ? I see no chance of that, and the officer finds himself in a very difficult position. He might say, “ My job is dependent upon it, poor Diwan Bahadur has got to go, I am afraid ” Well, Sir, we do not want that sort of position in dealing with these unlawful assemblies. It is an unpleasant task and there is only one way of doing it. By all means if a magistrate is present—and we hope he will be present on most occasions,—he is there to give the necessary orders to the officer to use such force as he may think fit, but if he is not there, the officer must undertake the responsibility himself and it is up to us in this House to make certain that he has a proper sense of responsibility and that he can perform that duty with our confidence behind him. That is what we want, that is the only way in which we can ensure that this duty will be performed efficiently and in a correct and humane manner. I do not wish to refer to the controversies and regrettable incidents of the past, but there are, I think, lessons to be learned from the Punjab rising and from the Moplah rising. On the occasion of the Punjab rising I believe that, regrettable as it is, the total number of deaths was between 300 and 350, and on that occasion I think the House knows that you had a very severe measure of martial law. (*An Honourable Member* “ Jallianwala Bagh was before martial law ”) Well, you had a very severe measure of military force which is not denied. As a result of the incidents on that occasion and in consequence of the depth of public feeling about them, Sir, you found officials very chary of using military force when we got the Moplah rising.

**Mr Devakar Prasad Sinha** May I know whether the Honourable Member uses the “ cheery ” or “ chary ” ?

**Colonel J D Crawford** “ Very careful ” if you prefer that. Then we got the Moplah rising, the local authorities were nervous to move on account of public opinion against them—martial law was brought in slowly and forces were not used. Even my Honourable friend, Diwan Bahadur Rangachariar on the 5th September 1921 in this House blamed the authorities for not using more force.

**Diwan Bahadur T Rangachariar** No, no, I did not say that. All that I did say was that Government did not deal with it at once not that enough force was not used.

**Colonel J D Crawford** May I quote the Honourable Member's words

"The District Magistrate, I am sorry to say, had not taken adequate precautions to protect the population when he took such a serious step as this. He should have armed himself with more force."

**Diwan Bahadur T Rangachariar** 'Armed himself with more force' does not mean the use of that force

**Colonel J D Crawford** But, Sir, what was the result of all our care and all our consideration? The total number of deaths was 1,100, and of those, Sir, 100 were entirely innocent Hindu citizens whom it was the duty of the Government to protect

**Mr. C S Ranga Iyer** Do you consider the other 1,000 guilty?

**Colonel J D Crawford** That is the position, Sir. If you have to call upon military forces to use force in the dispersal of unlawful assemblies, then our only trust is in the fact that they will use their powers with a suitable sense of responsibility, and I believe and I am convinced that the measures which my Honourable friend Diwan Bahadur Rangachariar desires to see on the Statute-book will have the very reverse effect

Finally, Sir, as regards clause (4), that too is liable to make officers think, "Well, whatever action I take I am sure to be in the wrong and afterwards I am open to charges of all kinds."

**Diwan Bahadur T Rangachariar** May I ask the Honourable Member what they do in England? Do they hesitate because there is a liability to prosecution?

**Colonel J D Crawford** May I remind the Honourable Member that England is somewhat more disciplined than this country? We do not have to use troops as often in England as we do in this country. The police in England are the friends of the citizens and the opposition shown to them in India does not obtain in England. But there are provisions already in the existing Criminal Procedure Code for the protection of the ordinary citizen. We can undertake prosecutions with the sanction of the Local Government or in the case of military force with the sanction of the Governor General. So he is not without some means of redress if he thinks he has got a good enough case. This measure will sap the sense of responsibility of those officers who are called upon to perform these unpleasant duties on behalf of the citizens, and it is up to us to give them every possible support in the performance of an unpleasant duty of this nature.

**Mr T C Goswami** (Calcutta Suburbs Non-Muhammadan Urban) - May we, Mr President, return once more to the civilian point of view? I think I am expressing everybody's feelings in this House when I say that we heard the weighty words of the soldier-statesman, whom the King has recently honoured in such a unique manner, with great interest and with the deepest respect. I am sure His Excellency Sir William Birdwood will never use the Field Marshal's baton except to uphold the great principles of law that obtain in the land of his birth, if not in the land of his adoption.

Sir, we recognise—I am sure all of us in this House recognise—that the situation in which a magistrate or an officer may be called upon to fire on a mob is, necessarily, not only extremely unpleasant, but very

difficult I will remind this House of a very great judgment delivered in England in the case of the Bristol Riots That is known as the case of *King vs Pinney*, and I shall quote *in extenso* one paragraph out of that judgment, which shows that the judiciary in England took into consideration the very unenviable position of the Magistrate or officer, and at the same time imposed on him duties extremely difficult to discharge

“ Now ”,—said Mr Justice Littledale,—“ a person, whether a magistrate or an officer, who has the duty of suppressing a riot, is placed in a very difficult situation, for if by his acts he causes death, he is liable to be indicted for murder or man slaughter, and if he does not act, he is liable to an indictment or an information for neglect. He is therefore bound to hit the precise line of duty, and how difficult it is to hit that precise line will be a matter for your consideration.”

—that is to say for the Jury's consideration—

“ But that ”,—continues the Judge—“ difficult as it may be, he is bound to do ”

Now, I will pass on to another judicial pronouncement in the famous case of *King vs Eyre* There the learned Judge said

“ Where the inquiry is whether an officer is guilty of misdemeanour from an excess beyond his duty, the principle is very much the same, or rather it is the complement of that laid down in the case of *Rex v Pinney* If the officer does some act altogether beyond the power conferred on him by law ”—

—that is the Common Law—

“ so that it could never under any set of circumstances have been his duty to do it, he is responsible according to the quality of that act, and, even if the doing of that illegal act was the salvation of the country, that though it might be a good ground for the Legislature afterwards passing an Act of Indemnity, would be no bar in law to a criminal prosecution, that is, if he does something clearly beyond his power But if the act which he has done is one which in a proper state of circumstances the officer was authorised to do, so that in an extreme case on the principle laid down in *Rex v Pinney*, he might be criminally punished for failure of duty for not doing it, then the case becomes very different ”

Thus we see that the learned Judges in England did recognise the very difficult task that a magistrate or an officer had to perform in the various situations that might arise when he was threatened with a riot or faced by an angry mob I will also take the liberty of reading the commentary by an authority on Constitutional Law, so great as the late Professor Dicey, on the passage I have just quoted He explains

“ A General, an officer, a magistrate or a constable, who, whether in time of war or in time of peace, does without legal justification any act which injures property or interferes with the liberty of an Englishman, incurs the penalty to which every man is liable It is a breach of the law ”

Under those circumstances, the general or the officer or the magistrate is treated in law as a common law-breaker Of course, the protection that such men have is the prospect, the hope, that the Legislature would pass an Act of Indemnity And I am sure this Legislature would not, when the circumstances warranted, refuse to pass an Act of Indemnity to indemnify those officers who in a difficult situation and in really good faith slightly exceeded their duty This is an important consideration

There are other authorities in English law who may be quoted We hold that these principles of English law are safely applicable—and ought to be applied—to this country, in spite of what my Honourable and gallant friend Col Crawford has said—arguments savouring more of fear than of reason

I listened with great interest to the statement of His Excellency, that "a soldier is first of all a citizen" That, Sir, is not only a very fine sentiment but, from the point of view of English law on the subject of riots, is legally true I believe I am quoting the words of a great Judge in connexion with one of the riots in England, he pronounced that "a soldier is only a citizen armed", and that he has got the same duties and the same liabilities as a civilian, who has also the *duty* enjoined by Common Law of intervening and suppressing a riot

I shall not go into the unfortunate incidents of the past, like that of the Jallianwalla Bagh, except to say this,—that the Bill of Diwan Bahadur Rangachariar does not provide adequate safeguards for circumstances such as those which resulted in the Jallianwalla Bagh Those are political incidents, and I feel that there may yet be many more Jallianwalla Baghs before we have seen the end of the present system of government And in those circumstances, I am afraid this Bill will be of very little use for the preservation of the liberties of the citizen This is a Bill which provides certain elementary safeguards in cases of ordinary riots And that is its justification

These are the considerations, Sir, I desire to commend to all sides of the House I say no more

**Diwan Bahadur T Vijayaraghavacharya** (Madras Nominated Official) Sir, I feel that it is necessary to bring back this Bill to its proper issue It seems to me that we have all travelled over a wide ground After all, we are not concerned with the question as to what is the moral effect of putting down a disturbance The object of this Bill is extremely simple It is to put into law certain executive instructions which already exist, and it is asked what can be the possible objection to putting these executive instructions into the form of laws Well, it seems to me that for one thing it is all right to issue executive instructions, and for the magistrate to have to bear them in mind when he is faced with the duty of putting down a disturbance, but it is another thing to give them statutory force It is not to be assumed in the case of a magistrate that in the absence of legal rules he is free from responsibility On the other hand, I believe the experience of many magistrates has been that the long explanations which they have to render to superior executive authorities on such occasions, are quite as terrifying as any experience in a court of law The magistrate has got to render an account, a very strict account, of his doings, and then it is not to be supposed, as has been alleged, that the ordinary administrative authority begins with a prejudice in favour of the magistrate My experience, and I believe it is the experience of other magistrates in this House, is, that the Secretariat at the provincial or Imperial headquarters is, generally speaking, more apt to suppose that the man in the district is likely to have been wrong, and the Secretariat holds him to a very strict account of his doings And, remember the circumstances under which the Secretariat asks for these long explanations The man in the Secretariat sits in a cool chamber of his own, is surrounded by *chaprasis*, surrounded by the police, he has got no trouble to face and he thinks that a magistrate facing a mob is in the same position as the Under Secretary sitting in his office room, and he is apt to apply a standard which it is not possible for a

district officer to apply who is faced with a mob and who has got to think on the spot and decide at once for himself. It is responsibility enough to have to account to the administrative authorities, and the fact of this accountability on occasions prevents a zealous and humane district official from doing his duty in the way in which he would do it if he felt that prescriptions would not be drawn against him. (*Mr. M. A. Jinnah* "That would not happen in a judicial court.") That may be so. But to this extent the judicial officer is in the same position as the administrative officer, in that he too sits in a cool chamber of his own, surrounded by the forces of law and order and he applies to the executive officer's action the same rigid standard which the Secretariat official applies. And if you enact the law there is this further trouble. The magistrate may have honestly carried out all the executive instructions already in force. He may not have ordered the use of fire arms till he had satisfied himself that it was unavoidable. He may have given a warning. But all the same, it is one thing to satisfy your self on the spot as a magistrate that you have exhausted all the possible precautions before you proceed to extreme measures, and it is another thing to satisfy the court. I may relate in this connection a case which happened some years ago in my own province. A man was dying, a very wealthy man, and he called in two of the most eminent lawyers in the province to attest his will. He died and later on a case about the validity of the will came up before the courts. The two eminent lawyers, accustomed to cross examinations all their lives, appeared before the court and gave evidence. Each contradicted the other very materially under cross-examination as to who were present, what was the exact thing the man said, and the surrounding circumstances. The result was that at the end of a long trial, these two gentlemen, eminent lawyers, very honourable men in private life, were disbelieved by the court and the will was held to be not proved. In talking to one of these gentlemen afterwards he considered that it was extremely lucky in the circumstances that he was let off without a sanction for perjury. It is one thing to be able to do a thing rightly but it is another thing to be able to prove it to the satisfaction of a court, particularly in the case of a disturbance where the magistrate has naturally and necessarily to deal very roughly and on the spot with circumstances which perhaps, if he were in a quiet chamber, surrounded by the forces of law and order, he may have handled differently. After all, by no amount of statutory rules can you prevent the personality of a magistrate from coming into play. You have to trust your magistrates. But you ask. Are we to trust them and give them full powers? As I said, the administrative authorities are quite strict in holding a magistrate to account in these matters. (*Mr. M. A. Jinnah* "Are they?") The public may not know it, but it is so. (*Mr. M. A. Jinnah* "Tell us, what do they do?") Some of these experiences I shall tell you by and by when I am on your Benches. (*Mr. M. A. Jinnah* "I have never been in your shoes tell us.") Well, I can tell you an experience, if you like. (*Mr. M. A. Jinnah* "Go on.") It was the last time I had to do my duties as magistrate a few years ago and there it was, we were faced with a mob. The policeman who was on the spot advised that firing should be resorted to, but I used my own judgment in the matter and declined to permit the use of fire-arms, and as it turned out I did the right thing. But conceivably I might have come to a different judgment. You had to trust me all the time. I could have acted the other way, if I was satisfied that the occasion demanded the use of fire-arms.

As a matter of fact, I may tell you, Sir, that on this occasion there was a great deal of difference of opinion as to whether I should have used fire-arms or not. It did turn out that there was no need to use them and I proved to be right, but it might have turned out the other way. Magistrates are often as wrong as policemen are. But it comes to this that, supposing I had authorised the use of fire-arms on this occasion and supposing I had afterwards been asked to render an account to a court of justice, well even if I had acted from the very best of motives, it would have been difficult for me to prove in to the satisfaction of a court. The court probably may never have been in a similar position, and like my friend Mr Rangachariar may have never been faced with a riot, the court may apply very unpractical standards and very different from what an experienced magistrate would apply. The position is very different. (*An Honourable Member* "The magistrate is a court") The magistrate is a court. But very often his trial will come up before a court which is very different. And as a matter of fact, when there was that very serious Moplah disturbance in Malabar, and it tended to spread to my part of the country, I had to do a certain number of things which in the judgment of the people resident there were absolutely correct and in the public interest. But when it came up before a court, it was found that the action was not strictly justifiable by law. (*An Honourable Member* "What law?") The fact is, very different standards are applied by the magistrate who is on the spot dealing with the situation and by the court which is far away and which in a cooler moment—it is easy to be wise after the event—judges the facts. I am perfectly certain that I am speaking for the majority of magistrates when I say this, magistrates do not desire to clutch power, they do not desire to break the law, and the more our public men trust us, the more we shall respond to the trust. And I do not see any particular reason why in framing this particular Bill you should proceed on the assumption that a magistrate is apt to break all the executive instructions which bind his actions. (*Diwan Bahadur T. Rangachariar* "On the other hand, I want the magistrate to be present") If you want the magistrate to be present you had better trust him to exercise his judgment, subject always to the control of public opinion and to the control of his executive and administrative authorities, who, as I told you, are certainly not inclined to stretch a point in favour of the magistrate. That is all, Sir, I wish to say on this question.

\*Mr M. A. Jinnah (Bombay City Muhammadan Urban) Sir, I only got up in order to respect your entry into this House, but since you have called upon me and since I undoubtedly intended to speak I shall certainly avail myself of the opportunity that you have kindly given me. Sir, there is a certain amount of confusion about this Bill. In order to understand the position I would like to place a few observations before this House. His Excellency the Commander-in-Chief—and if I may say so the first Field Marshal who has done us in this House the honour of addressing it—spoke, if I may say so, with the precision of a soldier and the logic of a lawyer. Sir, he said that the most essential thing that was needed was that you should place the responsibility upon the commanding officer who is in charge of his regiment. Now, section 131 of the Criminal

Procedure Code, which is the law as it has existed up to the present moment, says this

“ When the public security is manifestly endangered by any such assembly and when no magistrate can be communicated with, any commissioned officer of His Majesty's Army may disperse such assembly by military force and may arrest and confine any person forming part of it in order to disperse such assembly ”

Therefore it assumes that a commissioned officer of His Majesty's Army will not use or resort to the use of military force if any magistrate is available. I do not think that it can be argued for a single moment that the magistrate should be dispensed with, and I believe that on every occasion when there is need to use military force what happens is that the magistrate's services are requisitioned by the civil authorities. Now, Sir, this Bill says in the first instance in clause 2

“ Where under the provisions of this Chapter any person proceeds or determines to disperse any such assembly by the use of firearms the following further provisions shall apply

(1) Fire-arms shall not be used unless such assembly cannot otherwise be dispersed and unless a Magistrate of the highest class present specifically authorises such use ”

I am sure that His Excellency the Commander-in-Chief will not say that fire-arms should be used although such assembly could otherwise be dispersed. Therefore, the first essential is that fire-arms shall not be used unless such assembly cannot otherwise be dispersed. That, I think, cannot be disputed. But, Sir, objection is taken to the last part of the sub clause, that a magistrate of the highest class present should specifically authorise the use of fire-arms. I take it that is the first objection, and in this connection His Excellency the Commander-in-Chief quoted from the King's Regulations. The latest edition of the King's Regulations, if I may put it shortly, stands as follows: in England the magistrate when he comes to the conclusion that it is necessary to use military force hands over the charge from the civil to the commanding officer, and the commanding officer steps in and he is the judge, the sole judge and the only judge, of what military force he should use. We are told, and rightly told, that we are proposing an innovation, a change in that state of the Regulations which prevails in England. Sir, I plead guilty to that charge. But sometimes we are told that we are to follow England and sometimes we are told that we are far far behind England. Now, Sir, I want this House to come to an independent judgment. Are we to follow the English precedents in everything? We find that what we are proposing to-day existed in England until very recent times—and I believe that the change which His Excellency the Commander-in-Chief pointed out has been brought about within the last few years—in 1920. Now, what was the position in England before 1920? It was this

“ All commands to the troops are to be given by the officer, the troops are not on any account to fire excepting by word of command of their officer, who is to exercise a humane discretion respecting the extent of the line of fire and is not to give the word of command to fire unless distinctly required to do so by the magistrate ”

Diwan Bahadur T Rangachariar I do not know that it is yet repealed

Mr M A Jinnah My Honourable friend Diwan Bahadur T Rangachariar says that he does not know that it is yet repealed. Sir, I have verified it to the best of my ability and if the Honourable Mr Burdon, who has got a copy, will kindly read out that Regulation it will



appear that these last words " unless distinctly required to do so by the Magistrate " are omitted , I believe I am correct in that . Now, Sir, we are told by His Excellency the Commander in Chief and by the Government of India, " Here is an ideal, a pattern which Great Britain has adopted in 1920 and you should follow it " That I understand to be the argument . Sir, I have great admiration for Great Britain , I have great admiration for your genius . but I think, with all that admiration, that we cannot always follow in your footsteps . We must also have some regard to our own conditions in this country . and if we choose to follow what you followed until 1920, do not think that we are suggesting a revolutionary change which would frighten the Treasury Benches . I see the Honourable the Home Member is frightened .

**The Honourable Sir Alexander Muddiman :** I am not in the least frightened

**Mr. M A Jinnah** He says he is not frightened, but I say he is frightened, because I see he has written a long minute in the Select Committee's Report . Now, Sir that is the answer I have to give to His Excellency the Commander-in-Chief

Now, Sir, why do you assume that a magistrate, who, I take it, will be an experienced officer

**The Honourable Sir Alexander Muddiman** May be

**Mr M A Jinnah** Then it will be your fault if you appoint an inexperienced officer

**The Honourable Sir Alexander Muddiman** If the Honourable Member will assure me that he will give me 24 hours' notice before a riot takes place, I will make sure that an experienced magistrate is on the spot

**Mr M A Jinnah** I do not know, Sir whether they got 24 hours' notice in England when the King's Regulation was enacted . I am really surprised that the Honourable the Home Member thinks that that is an answer to what I said . What I said was that a responsible Government will appoint competent, responsible and experienced officers to those posts, and I assume that my magistrate in this country is competent to perform his duties . If you cannot do that, well, you better hand over the Government to somebody else . It is no answer to say that you do not get 24 hours' notice before a riot breaks out . I know that perfectly well . When I assume, Sir, that I have an experienced qualified, competent magistrate, I also assume that the officer commanding the regiment has been requisitioned simply because the civil authorities think that the situation can no longer be controlled by them . When he arrives on the scene with the requisition along with his military force, will not the magistrate tell him at once, in a second, what his opinion is, and will not the officer commanding see for himself the situation and tell the magistrate what should be done ? I quite agree with the Honourable the Home Member that there will not be time for a long judicial argument . I quite agree . The decision must be arrived at quickly, precisely and to the best of their abilities, to the best of their judgment, honestly, *bona fide*, and it must be arrived at promptly . But Sir, you get two men, a soldier and a civilian . What is the difficulty ? Can His Excellency the Commander-in-Chief,—I appeal to him,—can he tell me what were the serious difficulties that were

experienced in England since 1892 until 1920 when this Regulation was enacted ? Can His Excellency the Commander-in-Chief tell me what difficulties have been experienced with regard to the use of military force under section 131 ? A magistrate may say, " I think the time has not arrived to fire or to use fire-arms " " Well ", says the Commander-in-Chief, and I believe there are other Honourable Members who agree with him, " if you do that, more brutality will be perpetrated " Sir, I have yet got to be convinced, if I am right in my assumption that I have a magistrate who is competent, who is qualified, who is an experienced officer, that such an officer will deliberately restrict the powers of the military force, to use fire-arms, when he thinks that the result of it would be horrible and more brutality would be the result Why do you assume that ? Don't you give any credit for common sense, for intelligence to your experienced officer who is a magistrate, and who, you think, it is necessary to call before you are allowed to use military force ? If you can trust him to give you orders to use military force, can you not trust him to see that the consequence of his restricting you from using fire-arms might be more horrible and lead to a more brutal result ? Says the Commander-in-Chief, he is not satisfied Did you not have that in England ?

**Mr H Tonkinson** No

**Mr M. A Jinnah** I have read the King's Regulation.

**Mr H Tonkinson** I am quite prepared to read the English law to the Honourable Member and to show him that there was nothing of the kind in England

**Mr M A Jinnah** I have read English law 25 years ago, and I do not want a lecture from Mr Tonkinson I attended the lectures in the Inns of Court from 1894 to 1896 I have studied the English law, but I have forgotten a good bit of it now Sir, I do not want the English law I am talking of the King's Regulation which made it wrong for the commanding officer to use fire-arms unless distinctly required to do so by the magistrate That you cannot deny

Now, Sir, that is the first and the foremost objection that has been put forward by the Treasury Bench as far as this part of the Bill is concerned

Then, Sir, the next objection was that we are providing here sub-clause (2), which runs as follows

" (2) The person who directs that the assembly shall be fired on shall, before so doing, warn the assembly by such means as may be available that unless it disperses it will be fired on."

Now, what is wrong with that ? Does it in any way define the particular method or the particular manner or the time as to the warning ? The wording is this, " Warn the assembly by such means as may be available " That warning must necessarily depend upon the exigencies of the situation And what is wrong ? Sir, even the latest edition of the King's Regulations provides for a great deal of warning Of course, we are told " Why not trust your officers ? Why not trust the magistrate ? Why not trust the Commanding Officer ? " Sir, I wish to make it quite plain in this House that I shall be the last person if I had anything to do with any Government or even as a humble Member of this Legislature, I shall be the last person to strike any note which will in the slightest degree undermine implicit

and complete trust in my officers, whether they are civil or military And, Sir, I go a little further, and say that, if my officers, military or civil, have *bona fide* discharged their duties in the interests of the people of this country, if they have done their best, I shall be the last person to cavil at them, I should be prepared to overlook a great deal And I shall presently point out that even the Statute as it exists makes that distinction and lays down various clauses and various exceptions What does section 132 say? It provides in the first instance a complete safeguard, nay, a bar to even a prosecution being launched unless and until you have obtained the sanction of the Government And I will just read those few lines

“ No prosecution against any person for any act purporting to be done under this Chapter shall be instituted in any criminal court except with the sanction of the Governor General in Council ”

So a man who finds, or who thinks or who has reason to believe that an officer has used his power in excess of what he was authorised to do and thereby committed an offence, has got to obtain the sanction of the Government before he can launch the prosecution But, if he does get the sanction of the Government, what are the defences that are open to that officer who may be brought before the judicial tribunal of the country? My Honourable friend there from Madras gave us his experience as district officer Sir, after his description—what was it? He said Whatever we do, even when we are right, the presumption is made against us by the higher authorities, which, I take it, means either the Local Government or the Government of India Sir, if that is the belief of the body of those officers, what must be their state of mind that, when they are right, the presumption will be that they are as impartial, as honest, and as just as any one you can get in the world What object can a jury have to convict an officer who has discharged his duty honestly and faithfully? I think my Honourable friend, Mr Hussanally, might retire from this Legislature if he holds those views Well, Sir, I will proceed with my theme What are the defences that are open to an honest officer who has done his duty First, no magistrate (here is my Honourable friend), no magistrate or police officer acting under this Chapter in good faith, no officer acting under section 131 in good faith, no person doing an act in good faith in compliance with the requisition under section 128 or section 138 and no officer or soldier or volunteer doing any act in obedience to any order which he was bound to obey, shall be deemed to have thereby committed an offence Well, Sir, really it seems to me—I am almost inclined to echo the words of the Honourable the Home Member which he uttered only yesterday—that anything that comes from this Bench does not receive the same attention from the Treasury Benches as he complained that measures emanating from the Treasury Benches did not receive from this side Sir why raise these difficulties? Why conjure them up?

Then we get back to the last clause, and we have been addressed by another district officer from Bijapur who I believe is a renowned poet, only the world has not yet made up its mind to appreciate him, though posterity may pronounce judgment in his favour Sir, he tried to discuss section 132 and sub-clause (4) I don't know what conclusion he eventually came to, but he had some difficulty in understanding it I am not satisfied, Sir, with the *conundrums* that the Honourable Member started,

nor was I satisfied with his conclusions. But I hope—at least I aspire to that ambition—that if I satisfy him, I will be entitled to expect him to vote with me in the lobby.

Now, Sir, what does sub-clause (4) say? It says

“Notwithstanding anything contained in section 132, any person injured by the use of fire arms or any parent or guardian, husband or wife of a person killed by the use of fire arms may make a complaint against any person for any offence committed by him by reason of any act purporting to be done under this Chapter.”

Section 132 covers the case of an offence committed in the course of the use of military force. Military force may consist of various kinds. It may be a bayonet charge, it may be rifle fire, it may be fire from machine-guns, and so on. Section 132 deals with all cases of offences that may be committed in the course of the use of military force. But you cannot launch a prosecution without the sanction of Government. Sub-clause (4) makes an exception. The exception is that in the case of the use of fire-arms, if any offence is committed by any of the officers, in that event no sanction is necessary, but any one of the persons described in that sub-clause may file a complaint. But that does not deprive the officer prosecuted from putting forward his defence. I think that in the speech of Colonel Crawford there was a certain amount of confusion. He felt that the moment an officer is prosecuted, or the moment a complaint is filed against him alleging that he has committed a specific offence,—and I admit that it requires no sanction of the Government under sub-clause (4) of the Bill—from that moment the officer prosecuted will have to vindicate his innocence. I can assure him that that is opposed to every elementary principle of criminal law. The officer prosecuted or complained against will stand for the moment in the dock, but it is for the prosecution to prove the offence which they allege against him. They will have to satisfy the tribunal that he is guilty. Even assuming that a person was killed, that an officer deliberately went and shot him down as a soldier according to the orders of a superior officer, that is a defence to the officer complained against. If any officer acted in good faith, that is a defence. All those defences are open to him, as I read out in section 132. It has been suggested that this will undermine the morale of the officers, it will thwart their judgment, it will interfere with the precision of their decisions, and that you will demoralise all your magistrates, soldiers and officers if you pass this Bill. Sir, what justification is there for it? My friend Mr. Goswami read out two or rather three of the highest judicial pronouncements in England. Does not every officer take responsibility? Does not the Honourable the Home Member take responsibility? Has he not got to take the consequences? Has he not got to come to quick decisions, and even precise decisions at times? Have not we all in our lives to come to decisions and take the consequences of our acts? Why is a man afraid? Why does he think that this country is composed of such wicked people, such undesirable people, that when you come to an honest judgment, a *bona fide* decision in the best interests of the people over whom you are appointed as an officer to exercise your authority, human nature is so low that you will not be vindicated by the people of this country?

Mr. R. G. Gordon. What about your minute of dissent?

Mr. M. A. Jinnah. I am asked—and I am very glad, because I was just coming to that—about my minute of dissent. I frankly state it to



Diwan Bahadur T. Rangachariar Sir, after the very eloquent and defence of my Bill by my Honourable friend Mr. Jinnah, there is a little for me to say. Taking the speakers in their order, the Honourable the Home Member took only the objections which he had already at the last debate when the Bill was referred to a Select Committee. He thinks that the form of force to be used should be left to the police or military as the case may be and the magistrate should have a voice in that. Now, as regards that point, in addition to what has been stated by my Honourable friend Mr. Jinnah the existing provisions in the Criminal Procedure Code itself will be an answer not only to the Honourable the Home Member but also to His Excellency the Commander-in-Chief. Under the latter part of section 131 which my Honourable friend, Mr. Jinnah, did not read, it is the duty of the officer acting under those circumstances

" If, while he is acting under this section, it becomes practicable for him to communicate with a Magistrate, he shall do so, and shall thenceforward obey the instructions of the Magistrate as to whether he shall or shall not continue such action "

So that it is, only in cases where a magistrate cannot be present that the officer can take action and where he does take it, as soon as it becomes practicable for him to communicate with a magistrate he is bound to put himself in communication with him and thereafter to obey his instructions (An Honourable Member. "With regard to ?") With regard to the action, whether it should be continued or not, whether the firing should be continued or not. The whole scheme of the Code as well as of the English law is that the magistrate is the authority under whom the military officers who have to discharge their duties ought to act and whom they have to obey. In fact, under the Regulations, even if the force is divided into several sections it is considered advisable that a magistrate should accompany each of those sections if possible. Therefore, great importance is attached to the presence of the magistrate in order to assist officers who have to use force. Mr. Honourable friend, Mr. Vijayaraghavacharya, has given us a concrete instance where the magistrate's judgment was better than that of the police officer who wanted to shoot. So that is our point. The military and police officers have not got a proper judgment in these matters and that is why the law entrusts the magistrate with a discretion to decide whether such and such force should be used or not. I do not deny that the responsibility is not only on the magistrate but it is also equally on the British law on the military or police officers discharging their duty. But of them have to justify themselves before the law that it was used in good faith and in the public interests in which case there is no punishment.

[illegible]

to shoot you unless you disperse " Why should not such a warning be given, and if they are far away you can also easily give a warning. If they are very near you can utter that warning. How do you do under the Regulations? How did you propose to do it when you brought in this clause 131 (2) before the Council of State and brought it down to us for enactment? I submit that there is really no difficulty. You can conjure up extraordinary cases and say, "Look at them." We are providing for ordinary cases. We are not omniscient. No law is so careful as to provide for all cases which can come up. My gallant friend Colonel Crawford conjured up a case where I was being attacked and he was coming to defend me. I may assure him that no such contingency is likely to arise. My Mussalman friends in Madras are so fond of me that they will not come near my door with any hostile intentions. Now, Sir, it is said that if the magistrates have to decide, the military or police have to act as mere machines and their sense of responsibility will be lost. Every soldier takes a risk like that in England, and why should you not take a risk in this country? His Excellency the Commander-in-Chief told us that with this fear of prosecution hanging on him—the likelihood of a prosecution—he may not act promptly or as well as he should have done otherwise. Does this feeling operate in his mind in England? There any subject of His Majesty is at liberty to go to a court and complain of excesses on the part of the soldiery. Does it operate in his mind there? Why should it operate in his mind in this country and not in England? Therefore, all the three objections taken by His Excellency the Commander-in-Chief cannot have any force.

My Honourable friend, Colonel Sir Henry Stanyon, rather staggered me by the verbal objections and criticisms that he took. With regard to section 131A, he read

"Where under the provisions of this Chapter any person proceeds or determines to disperse any such assembly, etc."

and asked me, who is the person who determines. Did he read the Chapter? I should have thought he would have read the Chapter before asking me the question. It is the three classes of persons who determines to disperse an assembly, the magistrate, the police officer or the military officer, who acts in the absence of the magistrate. Those are the three persons who determine what force is to be used, and those persons have to determine whether fire-arms should be used or not. What is the difficulty he felt, I fail to see. Then again he asks, who shall be the judge as to the necessity for using force? I have already stated that under section 129 the magistrate of the highest rank who is present may cause it to be dispersed by military force, and he will also decide whether fire-arms should be used. If he decides wrongly, the court will take action, but if he acts in good faith he is protected. Then he also asked, what is the meaning of "otherwise" in sub-clause (1). "Otherwise" means other than the use of fire-arms. Then he asks how is the warning to be conveyed if people are concealed in a building. I did not know that you were going to disperse an unlawful assembly if they were concealed in a building. Unlawful assemblies are usually dispersed when you come face to face with them. If they are concealed you will be able perhaps to see some person, but if all are concealed then when they come out you had better warn them, or lock them in. The whole object of this section is to disperse unlawful assemblies.

Then some criticism has been levelled as to why I confined my Bill to the use of fire-arms, and I was asked why I did not extend the provisions to the men killed by bayonets. I am willing to accept any other amendments that may be made to my Bill. My Bill is confined to the use of fire-arms. If Honourable Members are more generous, who use the argument that my recommendation is very limited, let them bring in a Bill of their own and if they bring in an amendment to my Bill I will not raise any objection, though it will not be within the Preamble of my Bill, unless my friend the Honourable Home Member objects. One such amendment was suggested by my Honourable friend from Bombay. With reference to the period of time in which a report of the occurrence is to be sent, he said that the period of 24 hours was too long. I bow to his opinion if as a district officer he thinks 24 hours too long and he thinks that the officers concerned are able to manufacture evidence and he thinks that the second report will contradict the first report. My whole object was to give them time, so that in case people are injured they will have time to give them medical relief before writing their report. If my Honourable friend thinks that 24 hours are too long, I am prepared to accept any amendment he thinks. I do not think that these officers will really go to the length of falsifying reports, at any rate the majority of them would not do that. Anyhow I am willing to accept any amendment which will improve that sub-clause.

**The Honourable Sir Alexander Muddiman** Sir, His Excellency the Commander-in-Chief put matters so clearly before this House that there is very little left for me to say. His speech, I think, made a great impression on all Members of the House. He explained in the clearest possible language and with great lucidity the relations of the military and their duties in connection with these unfortunate occurrences. In these circumstances I propose to deal very shortly with the position.

The real crux of the position is this. It is contained in sections 130 and 131 of the Criminal Procedure Code. Section 130 deals with the duty of the officer commanding the troops required by a magistrate to disperse an unlawful assembly, that is to say, here you have the case where a magistrate and an officer commanding troops are both present. The magistrate decides when it is necessary to use military force. Once that decision is arrived at, the manner and degree of that military force is to be left to the officer commanding the troops.

Section 131, which is the next section, is where the commissioned officer is alone and there is no magistrate. My Honourable friend pointed out that once the magistrate comes, the responsibility passes to the magistrate, and there he is perfectly correct. But there again you get back to exactly the same position as under section 130. *Ex hypothesi* in that case you have the magistrate and commanding officer together, and the magistrate will decide whether military force is necessary, but, as in the first instance, the moment he so decides, the manner and degree of military force is to be decided by the military officer and the military officer alone. That is the position which has been supported by His Excellency Field Marshal Sir William Birdwood with arguments so cogent that it is not necessary for me to add to them in any degree. I would merely point out that, as His Excellency has stated, the disposition of the troops and the nature and degree of force to be used should be at the discretion of the military officer who alone possesses the necessary knowledge to



decide in such matters His Excellency also said that one of the reasons that rendered it necessary that this should be the position was that the military officer is responsible for the safety of the troops under his command—You cannot neglect the point that the officer commanding the troops is responsible for his own command—What sort of a situation would arise if the magistrate gave the military officer an order which that military officer knew would result in the destruction of his command Suppose the magistrate, *ex hypothesi*, a man with no knowledge of military matters, told the military officer to ground arms and stand by That military officer is perfectly well aware that if he does so his detachment may be massacred Is he to carry out that order? If he does not carry out that order he will be open to severe civil penalties If he does, he would be court-martialled The situation, therefore, would be an impossible one, and I hope the House will see that they are not parties to its creation

Now, one speaker said, and I desire to refer to this particularly, that the sentiments expressed by His Excellency the Commander-in-Chief were not shared by the British soldier and British officer As His Excellency stated and as I am sure everyone in this House knows, the British soldier dislikes these duties and has every desire to carry them out in the most humane manner and does so carry them out That led to the comment that the British soldier and British officer did not share that feeling Sir, I do not believe that to be true We have the recent history of the riots in Agra, Allahabad and in Delhi (several times in Delhi) On each occasion, the citizens of the town have borne witness to the forbearance and restraint with which the British troops have discharged their difficult duties As Home Member I bear testimony to that, as it was not later than last Bakr Id that British troops were standing by to maintain law and order in many places and it was due to their presence that no disturbances occurred

Sir as regards the other remarks that have been made in the course of the debate I will only refer briefly to one or two statements of my Honourable friend, Mr Jinnah

He assumed that competent magistrates would always be available I wish that was so I wish  
 4 P M this House would place at my disposal sufficient funds to place at all important centres competent magistrates I will give an example from my own experience I was a young Sub-divisional Officer in charge of a Sub-division in which there were about  $\frac{2}{3}$  of a million people, and the area of the Sub-division was something like 700 square miles I was the only first class magistrate in the place My headquarters were the sub-divisional headquarters and the only other magistrate there was a third class honorary magistrate, who did not know a word of English My duties used to take me sometimes for a week or ten days many miles from the headquarters of my Sub-division and if the Honourable Member thinks that an Honorary magistrate with third class powers is competent to issue orders to officers commanding troops as to what kind of military force is to be used, I think he is mistaken

Mr M A Jinnah It says Magistrate of the highest class

The Honourable Sir Alexander Muddiman Available The next point in his speech to which I wish to draw attention is his reference to

the fact that the King's Regulations have been altered Well, Sir, they have been altered, and I will tell him why, and he probably will remember it well because, as he told us, at about that time he must have been eating his dinners Sir, that alteration was obviously made as the result of the judgment in the Ackton Colliery case That case took place in 1893, and it was thereafter that the King's Regulations were altered, and I have no doubt they were altered in view of this passage in the judgment which, with your permission, I should like to read to the Assembly

“ The question whether, on any occasion, the moment has come for firing upon a mob of rioters, depends, as we have said, on the necessities of the case. Such firing, to be lawful, must, in the case of a riot like the present, be necessary to stop or prevent such serious and violent crime as we have alluded to, and it must be conducted without recklessness or negligence When the need is clear, the soldier's duty is to fire with all reasonable caution, so as to produce no further injury than what is absolutely wanted for the purpose of protecting person and property An order from the magistrate who is present is required by military regulations, and wisdom and discretion are entirely in favour of the observance of such a practice But the order of the magistrate has at law no legal effect Its presence does not justify the firing if the magistrate is wrong Its absence does not excuse the officer for declining to fire when the necessity exists ”

I have no doubt it was in view of that judgment that the King's Regulations were altered Now I have only one remaining remark to make, and that is in regard to the question which was raised also by my Honourable friend Mr Jinnah, who said, why do you not substitute the Advocate General for the Local Government, or the Government of India as the case may be ? Sir, the main object of the provision is to secure due examination before a prosecution is undertaken, and normally, at any rate in my experience, in an important case, there is no doubt that the Local Government, or the Government of India as the case may be, would consult their principal lawyer First of all, no Government would embark upon a prosecution at least if I had anything to do with it, without competent legal advice, and therefore you may be sure that the Local Government or the Government of India would have before them the opinion of their legal officer I am not authorised, nor in a position to accept such an amendment on behalf of the Government of India, but if such a proposal was brought up personally, I should be inclined to consider it favourably It only remains for me to say that His Excellency has pointed out how impossible the provisions of this Bill are in so far as they interfere with the discretion of the military authorities, and I think I myself, Sir, have answered every other argument which has been brought forward in favour of this Bill I therefore hope that the House will refuse to take it into consideration

The motion was adopted by 56 votes against 47

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*Monday, 14th September 1925*

## THE BAMBOO PAPER INDUSTRY (PROTECTION) BILL

**The Honourable Sir Charles Innes** (Commerce Member) I move, Sir, for leave to introduce a Bill to provide for the fostering and development of the bamboo paper industry in British India

**Mr Chaman Lal** (West Punjab Non-Muhammadan) Sir, I rise to oppose the introduction of this Bill. It has become almost a habit in our public life that we are apt to treat economic matters in a very superficial manner. The great need to my mind is that we should bring to bear upon a subject of this importance all the scientific thinking that we can command. Honourable Members here, Sir, have been heard relating their experiences and discussing this question from the point of view of pure anecdote. You cannot determine the operations of economic law or the great principles of political economy by reference to stray conversations about the price of turmps with your village green-grocer. That is not the way, I submit, Sir, to discuss an important matter of this kind. The question is a very simple one. What is it that we are being asked to do? To-day we have in India 9 paper mills. Out of 9 paper mills there are 5 which produce practically the total amount of paper being used in this country. They are the most important mills and I venture to say that these 5 mills are mostly European owned. Now if the report is carefully read you will discover that the paper mills do not need protection, that the policy of protection which is being advocated is said by the report itself to be a policy which is not in consonance with the principles laid down by the Fiscal Commission. In spite of all that, it is discovered that there is a particular kind of mill producing paper from bamboo pulp, and in order to protect that particular mill, the policy of protection must be advocated for the whole of India. That in brief is the verdict of the wise economists of the Tariff Board. 33,000 tons of paper are produced in India. Out of this, 2,750 tons are produced by this particular mill from bamboo pulp mixed with wood pulp. Now, it has been declared by the Tariff Board that these other mills which produce nearly 30,000 tons of paper in India do not satisfy the principles laid down by the Fiscal Commission and that therefore the policy of protection advocated for these mills is a policy which we should not accept. Illogically enough, they go on to state that we must protect this industry anyhow because there is a probability—not a certainty—but a probability, that these mills which are producing paper may cease to produce paper in the near future. Now the question that I want to draw the attention of the House to is this, that you have advanced reasons here in this House for the protection of paper which to my mind appear to be absolutely fallacious. I see no reason why the tax-payer of this country should be burdened in order to support a certain number of mills which have been in existence—not for a few months, not for a few years, but for nearly half a century. A policy of protection if it is to be advocated—I do not agree with that statement—but if it is to be advocated, it must be advocated, protectionists tell us, for nascent or infant industries. That is the right principle of the matter according to them, but in this particular case these industries are really grey-bearded and grey-headed industries, they are not nascent industries, they have been in existence, as I said, for nearly half a century. The question is very clearly stated in the Report

of the Tariff Board Here I ask your permission to read a few lines from pages 84 and 85 of the Report they say in the first paragraph .

“ The existing paper mills which use *sabai* grass do not satisfy the conditions laid down by the Fiscal Commission and their needs are therefore irrelevant in considering the claim to protection.”

If this is the verdict of the Tariff Board, why should the Tariff Board have gone to state with a passion for illogicality that this protection that we are giving to paper produced from bamboo pulp must also apply to those mills that are using *sabai* grass ? If their needs are such that the matter is absolutely irrelevant to the discussion we are holding here to-day, why should the Tariff Board or Government or anybody else advocate a policy of protection for the mills which use *sabai* grass ? All that I can see is this, that for the sake of protecting the production of 2,750 tons of paper in this country you are levying a duty from the people of this country which amounts to a total of about 21 lakhs of rupees, and that the benefit of this duty will go, not to further the interests of this country at all, but to further the interests of a monopoly which at the present moment happens to be in the hands of European firms (*An Honourable Member* “ Question ”) If you wanted to protect the paper industry in this country following the suggestion of the Tariff Board you could have given it loans, because the great need at the present moment is capital There is a mill in the Punjab to which the Honourable the Commerce Member referred the other day which wants capital The Tariff Board say that that particular mill has every advantage that this country can give it for the starting of the paper industry and yet you are not giving it any assistance of any kind That mill, an Indian mill, cannot come into existence unless and until the proper amount of capital has been raised in the country It could easily be done by the State taking over such concerns But that particular subject has not been faced and under cover of the plea that the paper industry is in peril we are presenting to-day the monopolist paper mill owners in this country with a protective duty which will give them the advantage of a bonus of Rs 21 lakhs per year I am entirely against any such principle

Then again, Sir, the second question that arises is this

**Mr President** The Honourable Member must be aware that this is a motion for leave to introduce the Bill and he has no right to speak for more than ten minutes, which he has already exhausted

**Mr Chaman Lal** I agree with your statement, Sir, that I have only ten minutes on the introduction of the Bill and since that is so I shall reserve my remarks for a subsequent occasion when the Bill is taken into consideration

**Mr President** The question is

“ That leave be given to introduce a Bill to provide for the fostering and development of the bamboo paper industry in British India.”

The motion was adopted

**The Honourable Sir Charles Innes** Sir, I introduce the Bill.

**The Honourable Sir Charles Innes** Sir, I move

“ That the Bill to provide for the fostering and development of the bamboo paper industry in British India be taken into consideration.”

The only point I have to make is that this Bill carries out the Resolution which has just been unanimously passed by the House

**Mr Chaman Lall** · With this interlude, Sir, I resume my speech As I was saying, the second question which arises is this For the sake of protecting one particular mill producing 2,750 tons of paper from bamboo, we are actually imposing a serious burden on the poor people of this country As far as this particular Bill is concerned, if Honourable Members will only read the Report of the Tariff Board they will discover that there is no finality as far as the production of paper by this particular mill is concerned The whole affair is in an experimental stage, nothing has been decided—it has not been proved that you will be able to run this particular mill, which produces paper from bamboo pulp, on a commercial basis It will take years according to the Tariff Board Report itself before any definite opinions can be passed upon the activities of this particular mill Indeed, for a matter which is in an experimental stage, for a matter which one does not know whether it is going to be a success or a failure, for a mill which is producing only 2,750 tons out of a total of 33,000 tons, we are bringing in the principle of protection for the whole country The indirect effect of that will be that whereas the Tariff Board say that assistance should be given for a specified concern only, you are actually, by passing this Bill, giving protection to all mills producing paper I see no justification whatsoever for placing these burdens on the people of this country Protection in itself is an evil—everybody must grant that, even those who are very protectionist in their views grant that protection is needed only for a certain period The Tariff Board recommend that you should give protection for a period of five years the Government go beyond that and say that you must give protection for seven years But I venture to say that with these conditions prevailing there will be no end to the period of protection Even according to the findings of this Report conditions are not likely to arise which may change the verdict arrived at by those who are protectionists as regards the protection of the paper industry in India No reason has been advanced, no argument has been given why this particular protective duty should not even after the expiry of seven years continue for another seventy years I submit, Sir, that the principle of protection is admittedly this that protection should be not permanent, but that it should be ephemeral, that it should last only for a certain period, that it should last for the purpose of supporting and sustaining a particular industry In this particular case I venture to say that no facts have been given to us to prove that this paper industry is not likely to subsist or be kept alive or even to thrive if protection is not granted to it As far as the general principle of protection is concerned, I am not going to weary the House with the old arguments which those who take an interest in the matter must be fully aware of But let me for a moment give you the opinion of a very high authority on the subject Talking of the United States, Sir Josiah Stamp says

“ But even so, it is not improbable that the States would have had practically a free trade history if it had not been for the Civil War, with the revenue tendencies it started, and the interests it set up ”

As far as the question of the general welfare of the people is concerned, it has been advanced as an argument that the interests of the country,

will suffer if this particular industry is not protected. I want Honourable Members to remember that the interests of a few monopolist capitalists are not coincident with the interests of the general mass of the people. That is a mistake which Honourable Members over and over again make because it is obvious that every capitalist thinks that he himself is the country. Dr Marshall, the great economist, said

“ Unfortunately the experience of many centuries shows that a policy which will confer a considerable benefit on each of a compact group of traders or producers, will often be made to appear to be in the interest of the nation, because the hurt wrought by it, though very much greater in the aggregate than the gain resulting from it, is so widely diffused that no set of people are moved to devote much time and energy to making a special study of it. Its advocates speak with zeal and the authority of expert knowledge. But they are bad guides, even if unselfish and perfectly upright, for a policy that makes their peculiar profit is invested in their eyes with a deceptive glamour ”

But I have no doubt that the Honourable Members claiming protection now have learned nothing and forgotten everything

Then again Dr Marshall asks, “ whether a greater national income badly distributed is a boon ” That is the question which we have to consider. That is the main point, Sir. The interests of the capitalists in this country are not coincident with the general interests of the masses, and yet you are advocating protection for the benefit of a few and to the detriment of the many. It is said that there are quite a few capitalists who happen to be foreigners, but yet I find Honourable Members who are oftentimes indignant because they find that industries in India are going out of their hands into European hands, getting up and telling us in this particular instance that they consider the interests of their country are at stake. Sir, when they say that the interests of the country are at stake, the interests as a whole of this country must be considered, I mean the interests of the masses, and not the interests of a few individual capitalists

Again, Sir, another argument has been adduced, and that is the question of the key industry. Now, paper does not happen to be the key industry—except in so far as it is the key to the dissemination of false information through newspapers. This is what a great economist says about this key industry question

“ I need not labour the key industry question, and I think that, if a matter is so vital to a State as to be protected on this ground, its risks and profits should not be left entirely to private persons even behind a tariff wall, but that the State should take its share of the capital involved, so that the tax-payer may, in the event of profits, participate in them, as against any burden he may assume as consumer ”

Sir, the proposition was put before the House that in any protection or assistance to be given to this industry, the interests of the Government, as representing the people of this country, must be safeguarded. But, Sir, while I find that Honourable Members are quite prepared to give assistance to capitalists, they do not reckon the consequences of that assistance to the workers and consumers in this country, in so far as their interests are concerned

Then the last argument was that this is an infant industry. I have already said that paper is not an infant industry. It has made tremendous profits during the War. Therefore, no question of protection can at all be raised. During the War they had the unnatural protection of the submarine and the commercial blockade. But now the

of protection is raised, after those interested in the paper mills have made enormous profits during the War, because they feel that those profits are not going to be on the same level as the profits made during the War. Here is the evidence of another economist on the question of the protection of infant industries

“ The protection of infant industries is the one case of protection which is held to be theoretically justified by practically all parties, but by no means all agree that the same result cannot as well be obtained by other methods, such as direct subsidies. The whole matter is so conspicuous for the thoroughness with which it has been worked out in theory in the text books rather than the extent to which it has been illustrated either by them or in real tariff history ”

That is the position, Sir. Now, take the paper industry as it is in India to-day. What are the difficulties that it is faced with? We have got in evidence that, as far as the bulk of the paper that comes to this country is concerned for purposes of newspapers, there is no possibility of any competition arising from the activities of the Indian paper mills in this country. But there is an enormous difficulty, and that difficulty has been very clearly pointed out by the Tariff Board. They say that the great trouble is that Indian paper mills have not been as efficiently managed as they should have been. That trouble is not that they could not make decent profits during the past 40 or 50 years, but that they have been negligent of their own interests. They have been so ignorant as to the real possibilities of the paper industry that they have gone in for immediate profits without looking to the future. First of all, the charge levelled by the Tariff Board is that the paper mills in this country have not learned the advantages of diversification in production. That is one of the charges levelled by the Tariff Board against these mills. The second charge which is levelled is that of bad quality of paper, and the third charge, of which we have heard many echoes in this House, is that of an expensive establishment. Most of these mills, as I said already, most of the important mills are European mills.

**Sir Darcy Lindsay** (Bengal European) May I know, Sir, what mills the Honourable Member refers to as European mills?

**Mr Chaman Lal** I think the Honourable Member is perfectly aware that the Titaghur and Naihati Mills are entirely in the hands of the Europeans. He further knows that most of the important mills manufacturing paper

**Sir Darcy Lindsay** I question this, Sir. There are three mills that are managed by European firms. I should say that the bulk of the shareholders in those mills, with the exception of the Paper Pulp Mill, which is a private company, are Indians.

**Mr Chaman Lal** Sir Darcy Lindsay says that the bulk of the shareholders are Indians. I challenge his authority, Sir. I challenge his authority to deny the fact that the most important mills in India are European mills. Further, I challenge his authority for his statement that the Naihatti Mills, for whose benefit a duty is imposed, is not an entirely European or private concern. It is in this very vague fashion

**Sir Darcy Lindsay** I should like to point out

**Mr President** I cannot allow the interruptions to go on, but if the Honourable Sir Darcy Lindsay wants to say anything, he will have his opportunity.

**Mr Chaman Lall** You have here a representative of one of the paper mills (Sir Willoughby Carey) He realised that he should not vote on this proposition, but he spoke But I ask him whether it is not a fact that the most important paper mills in this country are European mills It is very easy to hoodwink the public by saying that a good part of the capital of the mills comes from Indians I do not want to argue that point at all I am not standing here for the purpose of introducing any question of racial discrimination I know that capital has no country Capital has no national boundaries I am not concerned whether the capital comes mostly from Europeans or Indians The difference in my mind lies in this, whether the people of my country are going to be taxed and exploited for the benefit of either Indians or foreigners under any system of protection That is the main question

Now, Sir, I will come to this point, that the trouble in the paper industry is the trouble of mismanagement, of high salaries and bad technical knowledge, and the trouble which arose during the War, namely, that these mills made enormous profits during the War, whereas now they are unable to keep pace with those profits I do not think this House would be justified in helping these people out of their difficulties It is not right, Sir, that for the sake of a few capitalists, the representatives of the people of this country should be asked to take the money out of the poor because in this case the rich is the bargainer It is robbing the poor Peter to pay the rich Paul (Laughter) It is a joke which you, Sir, I am sure, will appreciate I do not see any reason whatsoever for granting any protection to this industry because some Honourable Members ask for it in the name of national prosperity or in the interests of their country though it is for their own interests I welcome the remarks of my Honourable friend Sir Purshotamdas Thakurdas But, Sir, he is one of the few capitalists in India who has no conventional bias in his mind when he comes to discuss this matter.

**Mr K Ahmed** How do you know it ? (Laughter)

**Mr Chaman Lall** Now, Sir, I come to the question of the support that has been asked for I hold in my hand a telegram which arrived two days ago from a gentleman who is supposed to be a great supporter of the workers, but whose past is a very doubtful past, a gentleman who is very well known to the Government and possibly very well known to the Home Department I challenge this gentleman's *bona fides* in asking Honourable Members of this House to support this Resolution because he alleges labour will suffer "Kankinara Labour Union requests you support this Bill labour will lose jobs Roy Chaudhury" Everybody knows him, Sir I say Sir, this is nothing else but blackmail I am sorry to say that a gentleman should have been put up by the employers to do this sort of thing I wish Honourable Members would examine his record Such statements do not frighten me, Sir I who stand here to fight for the cause of the worker am not going to be frightened if it is falsely alleged that a few of these workers are going to lose their jobs

**Pandit Shamlal Nehru** (Meerut Division Non-Muhammadan Rural) May I inquire, Sir, if the gentleman named by Mr Chaman Lall had said something about Mr Chaman Lall in the local Council, how would he have liked it without a chance of replying to him ?

**Mr Chaman Lall** I have said in public, Sir, and I say again that if this gentleman has any cause to complain, he has got the remedy in his LADPI



hands (Hear, hear) Sir, I say definitely here now that I do not believe that a single worker in my country is going to lose a single job if this protection is not granted to the paper industry (*An Honourable Member* "Does the Honourable Member mean to say ") You will have your say, Sir It is nothing else but pure bluff and bluster to try and frighten us into granting protection The position is perfectly simple If you read the Report of the Tariff Board properly and carefully, you will find that their verdict is that as far as the major portion of our mills is concerned, no protection should be given, and that as far as this particular mill, the Naihati Mill, is concerned, which produces only 2,750 tons of paper, we must protect it because it is in an experimental stage and because we ought to find out the possibilities of this particular new process for the manufacture of paper That is all Sir, is there no other way of finding out the possibilities of this process ? It would take years to put this process on a permanent basis but when that permanent basis has been arrived at, you will then be in a position to find out the possibilities of paper manufacture from bamboo pulp and whether that method is necessary and essential and commercially sound for the purposes of this country That is the position. I say, there is no justification whatsoever for the imposition of this general burden upon the poor people of this country for the sustenance of an experiment You are protecting not paper but actually ignorance by passing this Bill Honourable Members who jibbed at my Honourable friend, Mr Devaki Prasad Sinha, the other day rightly called him a Socialist and were amazed There is an old anti-Jacobin Poem which correctly describes their position to-day—regardful of the rich, indifferent to the poor, adding burden upon burden and calling with amazement to be delivered from those who might lead them out of their difficulties Here is a variation of it

" Again the Taxing man appear'd  
No deadlier foe could be,  
A Schedule—' Times of India ' length  
Within his hands bore he "

Saying—

" Let India's youth unite in arms,  
And every capitalist hand  
With honest zeal subscribe their mite  
To save their Native Land !  
God bless us all from factious foes,  
And Devaki Sinha's hiss  
And grant the Lord may never make  
Another socialist like this "

(Cries of " Divide, divide ")

The Honourable Sir Charles Innes : Sir, I notice that Diwan Chaman Lal is not present I have very little to say in reply to his very eloquent speech I must confess that I welcome speeches of this kind in debates of this kind, for, I think, it is most essential that these important questions of protection should be discussed from every single point of view. But the only point I have to make in regard to the Honourable Member's speech is that I think it would have been better if that speech had been made on the Resolution and if he had not waited until the Bill was moved,

for the very reason why I have adopted this procedure of proceeding by a Resolution and following it up by a Bill was in order to open the whole question of the report of the Tariff Board for discussion of the House and that there might not be any more restrictions, which would be inevitable in the case of a Bill, on full and free discussion of this matter. The position as I see it is this. Only this morning the House committed itself to the Resolution which has just been passed. Now, the Honourable Member who has just spoken has asked the House to reverse that decision and I am quite sure that the House will not place itself in that extremely awkward position.

**Mr President** The question is

“ That the Bill to provide for the fostering and development of the bamboo paper industry in British India be taken into consideration.”

The motion was adopted.

**The Honourable Sir Charles Innes** Sir, I move that the Bill to provide for the fostering and development of the bamboo paper industry in British India be passed.

Sir, in moving that motion, I should just like, with your permission, to refer to an amendment which is down in the name of Mr Dumasia, who is not present here. Mr Dumasia proposed an amendment the other day regarding super-calendered paper. That amendment, I explained to the House, put me in a great difficulty, because I had been taken by surprise, and with that tendency to subordinate my own opinion to that of others, which has always been my defect, I left the decision in that matter to the House. Since then I have had a great number of telegrams from various parts of India. Some paper mills have pointed out that they can make this paper. But the thing that really impressed me is that I have had telegrams from Allahabad and from Madras saying that, if this amendment is allowed to be inserted in the Bill, it would place certain papers in an unfair position in their competition with the *Times of India Weekly*. I have had the advantage of discussing this matter with some of my friends opposite and we have

3 P M.

arrived at an agreement. I will explain what that agreement is. I have given an undertaking to these Members and I will repeat it here. I will have the whole question of super-calendered paper, whether in reels or not, carefully examined and I will place it before the Commerce Department Departmental Advisory Committee, and if we arrive at a decision that we should make some exception in favour of this super-calendered paper, then I will undertake to include the item in a small Tariff Bill which, in all probability, I shall have to place before the House next Session. If the decision is against doing anything, then I will inform the House of the decision we have arrived at. I must express my acknowledgment to my Honourable friend Mr Dumasia, whom I see opposite, for having agreed to this suggestion. I have made this explanation and I move that the Bill be now passed.

**Sir Hari Singh Gour** I also wish to join my Honourable friend, Mr Acharya in expressing my regret that, while I should vote for the passage of this Bill, I shall not do so with an easy conscience because I see before me a Resolution moved by the Honourable Sir Charles Innes

which is worded, as the Honourable Members are aware, in the following terms

“ This Assembly recommends to the Governor General in Council that assistance be given to the bamboo paper and paper pulp industry ”

Now, Sir, as I understood this Resolution, I thought that there was no clear enunciation of policy pinning the Government down to giving the assistance merely to the bamboo paper industry. And in the course of the debate, when we raised this question as to whether the Government were enunciating their policy in favour of bamboo paper and excluding the possibilities of development of paper from other pulps such as fern, grass, etc., the Honourable the Commerce Member assured this House that the imposition of the import duty would not prejudice the other industries engaged in the manufacturing of paper in this country. That, Sir, gave me the necessary assurance and I thought that the Resolution would be followed up by an Act which would be either equally committal or equally non-committal. And, when I found, Sir, that there was a difference between the Resolution moved by the Honourable Member, and acceded to by this House, and the Preamble and section 1 of the consequential Bill, I tabled two amendments of which the House knows. These amendments have been ruled out of order, but I still hope that the Honourable the Commerce Member will reiterate the position he took up the other day when he said that there was no intention to help any particular class of industry and that the imposition of the import duty would benefit the paper manufacturers generally, whether that manufacture is confined to bamboo paper or bamboo paper pulp or paper from grass or other forest produce such as wood pulp, of which I understand there is abundant raw material in the forests of this country. I submit that the Honourable the Commerce Member should not pin down the issue to this that this Bill should not be confined merely to the subvention of the bamboo paper industry. I hope, Sir, that better counsels will prevail and if the Government are convinced that those industries, which do not make paper from bamboo pulp alone, are deserving of Government support, such support would be forthcoming. On these grounds, Sir, I ask the Honourable the Commerce Member to make a statement which should allay the doubts which exist not only in my mind but also in the minds of the co-authors of similar amendments which have been ruled by you, Sir, as out of order.

**The Honourable Sir Basil Blackett** (Finance Member) Sir, Sir Hari Singh Gour has much too acute a mind to have any doubts on this subject. He was merely anxious to get off a speech on this question which he was not allowed to make when moving his amendment. But I will none the less try to resolve his doubts. The Government have accepted the recommendation of the Tariff Board that they should give protection to the industry of making paper from bamboo and they have introduced this Bill with a view to giving such protection. This Bill commits them to the policy of attempting to give protection to the industry of making paper from bamboo. It does not commit them to the policy of giving protection to paper generally, because that would be exactly contrary to the recommendation of the Tariff Board. But the result of this Bill will be to impose an enhanced protective duty on all paper coming in from outside India. And, whatever the material from which the paper is being made inside India, it will, in competition

with paper from outside India, get the benefit of the enhanced protective duty. Practically it gets the same benefit. But the Government have been careful not to commit themselves to a policy of protecting the paper industry generally in view of the recommendation of the Tariff Board that such a policy would not be in the interests of India. I hope that resolves Sir Hari Singh Gour's doubts.

May I just add one word about Mr Acharya's speech? He complains that the result of this Bill will be to put 21 lakhs of rupees annually in the pockets of the Government and that none of it is being used in order to give additional bounties to the industry. Now, the effect of the imposition of the extra duty is to give very considerable assistance to all paper mills in this country and in particular to the mills making paper from bamboo. What the Government have decided is that they would not be justified in addition in making grant or loan or subsidy to this particular bamboo paper mill, or any of the other mills mentioned, out of that 21 lakhs, and that 21 lakhs, which I have heard described as a tax on education, will, at any rate, be available to the tax-payers, and in the tax-payers pocket will be available, for example, for hastening the moment when the Madras provincial contribution can be further reduced, and education stimulated in Madras.

Sir Darcy Lindsay (Bengal European) Sir, in offering our full support to the safe passage of this Bill, I would just like to bring one point before the House, and that is, in addition to the protection now offered to what we must all consider a national industry, the Government should do all that they can to support that industry by purchases in India of requirements for Government use. I find, Sir, that in reply to a question the other day the Honourable Member for Industries, I think it was in reply to question No 182, stated that orders for Indian mills amounted to 5,525 tons in 1924-25 and 5,794 tons in 1925-26, which indicated that the Stores Department were keeping up the average of the orders for Indian mills. On the other hand I find that while in 1924-25 the orders placed abroad amounted to 370 tons out of a total of 5,945 tons, equal to 6½ per cent, the orders placed this year amounted to no less than 1,988 out of a total of 7,783 tons, or 25 per cent of the total orders. It is on those grounds that I urge upon Government that they should give every assistance possible to the Indian mills. I am perfectly well aware that owing to the rise in exchange the price of foreign paper has fallen in India, and in reply to question No 246, on the 25th August the Honourable Member for Industries informed the House that he had placed an order for 670 tons of badami paper abroad, because it effected a saving of Rs 43,600. I contend that it is not altogether right of Government to sacrifice this industry merely for the sake of a small saving of money. My Honourable friend, Sir Willoughby Carey, explained to the House the other day the very large sums that were involved in this industry, that is, money coming in to Government. I think he told us that sixteen lakhs of rupees were spent on railway freight alone. Then there were royalties and the very large employment of labour. In my opinion, Sir, under these conditions the saving of a small sum of money, such as I have put before the House, should not have been taken seriously into account when placing the orders.

Just one other point. My Honourable friend Dhiran Chaman Lal, challenged me this morning as regards the statement I made about the

mills that were worked in this country. I would like to say to the House that out of 9 mills either in operation or in course of construction, 3 may be said to be managed by European firms. Two of them are joint stock companies and one of them is proprietary, which, later on if the particular industry of bamboo pulp looks at all successful, will be formed into an Indian company with Indian money. (*An Honourable Member* : "Which mill is that?") The Indian Paper Pulp Company. Now, as regards the other two, there is the Tittaghur Paper Mill with a very large capital which has recently been very considerably reduced, owing to the bad position in which the Company are placed. Of the capital at least 70 per cent is Indian money, belonging to Indian shareholders. On the register of the Company the names of Indian shareholders represent 70 per cent of the capital.

**Mr Chaman Lall** . May I ask the Honourable Member to let us know who the Managing Agents are?

**Sir Darcy Lindsay** Messrs Heilgers and Company.

**Mr Chaman Lall** . Are they an Indian firm?

**Sir Darcy Lindsay** No, European.

**Mr Chaman Lall** Quite!

**Sir Darcy Lindsay** On the Board of the Company four are Indian and four are European Directors and the Company employ Indian chemists, and Indians in the departmental management of the mill. The other Company, Sir, is the Bengal Paper Mills Company, managed by Messrs Balmer Lawrie and Company, an English firm. They have a much smaller capital, eleven lakhs, and debentures 7 lakhs. This company, I believe I am correct in saying, has 33 per cent of its capital held by shareholders on the register who are Indians. (*An Honourable Member* : "What is the share amount?") The share amount is 11 lakhs, of which 33 per cent is held by Indians. As you know, in this country shares pass from hand to hand and I can only go by the share register. (*An Honourable Member* : "What about the debentures?") I believe the same thing applies.

That takes up the challenge offered by my Honourable friend. I very much regret that he should have also referred in such very strong terms, and to my mind in very hurtful terms, to my friend Mr Roy Choudhry. Mr Roy Choudhry is a very earnest worker in the field of labour, and one thing to be said about him is that he does go amongst the people. I do not know that that can be said of all representatives of labour. It is not altogether fair of the Honourable Member to get up and openly abuse Mr Roy Choudhry on the floor of the House.

*Several Honourable Members* I move that the question be now put.

**Mr President** The question is that the question be now put.

The motion was adopted.

**Mr President** The question is

"That the Bill to provide for the fostering and development of the bamboo paper industry in British India be passed."

The motion was adopted.

## THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

The Honourable Sir Alexander Muddiman (Home Member) Sir, in view of the state of the business of the House, which I will not conceal causes me the gravest concern, and may possibly cause the House some anxiety, I propose to move the motion standing in my name as briefly as possible. I move that the Bill further to amend the Code of Criminal Procedure, 1898, be taken into consideration.

This Bill makes certain minor amendments in the Code of Criminal Procedure as amended in 1923. They have been brought to the notice of Government either by Local Governments or by judicial authorities or by both. I think I am justified in saying that they are all of a minor character and that there is no change of substance which affects the subject with the exception of the first amendment in clause 2, to which I will therefore refer in a little detail.

Prior to the amendment of section 123 of the Code by section 21 (2) of Act XVIII of 1923, Courts had discretion to award either simple or rigorous imprisonment in respect of proceedings under section 109. Now in a House composed as this is, there are very few Members who do not know what section 109 means. (Laughter) It used to be referred to in my young days as the *khana badesh* section. As a matter of fact it is the section which enables security to be taken for good behaviour in the case of suspected persons and vagrants. Two years ago a change in the law was made so that, as the law now stands, in default of security simple imprisonment alone can be imposed. This has proved a serious administrative mistake. I will read to the House, if I may, the opinions of the Local Governments. They are unanimous and they come from all parts of India.

The Madras Government say that the form of imprisonment might well be left to the discretion of the Court, as in some cases the persons bound over belong to a class of criminals for whom simple imprisonment is entirely unsuitable.

The Bombay Government say simple imprisonment affords an entirely inappropriate punishment for the persons concerned.

The Bengal Government say discretion should be left so that professional criminals caught under suspicious circumstances might be given rigorous imprisonment, while harmless vagabonds might be given simple imprisonment.

The United Provinces take the same view. They say the section as it stands is entirely ineffective and the discretion should be restored.

The Government of Burma take the same view.

The Government of Bihar and Orissa make the same recommendation. The Inspector General of Prisons in that Province refers in his annual report to hardened criminals being allowed to be idle in jail.

The Central Provinces Government made the same recommendation and pointed out that the discretion should be restored, as it is eminently undesirable that persons who are ordinarily sentenced to simple imprisonment on grounds of age or infirmity should be herded with vagrants whose habits are frequently filthy.

Therefore the Local Governments have made out a very strong case, the Government of India agree with them, the Local Governments are unanimous, and I trust the House will agree, without further discussion, to the passage of this Bill. But if the House are not prepared to do so, I trust they will at once throw out my motion that the Bill be taken into consideration. Sir I move

The motion was adopted.

**Mr President** The question is

“That clause 2 do stand part of the Bill.”

**Diwan Bahadur T Rangachariar** I am sorry, Sir, I have to oppose this clause. I have paid every attention to the earnest remarks by the Honourable the Home Member in respect of this clause. Sir, the last Assembly deliberately made this change. The view we took of this section was that, after all, these are preventive sections for preventing crimes being committed, and so long as a man is not convicted of a crime, it is not proper to give him rigorous imprisonment. It is well enough if a man is convicted of a serious crime that he should be rigorously confined, but why when he is unable to find people to give security. Take, for instance, people who have no ostensible means of livelihood. There are millions of people of that sort in our country. Take the Sadhus who go about the country. There are millions of such people and any policeman may run them down and say “Here you have no ostensible means of livelihood, you must find security.” By all means if he is unable to find security, confine him so that he may be prevented from crime, but why give him rigorous imprisonment? If he is an offender give him conviction under the proper section and send him to jail, but so long as he is unable to find security it is most improper to confine persons rigorously simply because they are persons who have no ostensible means of livelihood. That is, under section 109. And, Sir, it is very difficult to call upon people specially in a country like ours where there are millions going about the country. This was the view we took in the last Assembly. I had a hand in the shaping of the Criminal Procedure Code and got the Government to consent to it. Now what has happened? It is only two years since it was passed in Delhi. No new facts have come to light except that the Executive Government in each province wants this power to be restored. Of course Executive Governments always want power. Whatever power you take away from them they will always say “Do not take it away.” That will not satisfy us. I therefore ask the Assembly to reject it without any hesitation.

**Sir Hari Singh Gour** (Central Provinces Hindi Divisions Non-Muhammadan) Sir, as I also took some little part in 1923 in the amendment of the Code of Criminal Procedure I may briefly give the reasons which prevailed with that Assembly in altering the law. As we then understood criminal law and as I understand it still, there are two broad divisions of criminal law in England and in this country. The first branch is the branch known as preventive law and the second is that known as punitive law. Now, Sir, it has been an axiom with those who have studied criminal jurisprudence that a preventive action should never be converted into a punitive action, and if Honourable Members will turn to section 109 they will at once see the wisdom of the decision which our predecessors in 1923 took in making the amendment which is now sought to be reversed. Section 109, Sir, consists of two clauses. Clause (a) says

“(a) if any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction and if there is reason to believe that such person is taking such precautions with a view to committing any offence, or

(b) if there is within such limits a person who has no ostensible means of subsistence or who cannot give a satisfactory account of himself"—now mark the last sentence—"such Magistrate may in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties for his good behaviour, etc."

All that section 109 demands is that for a certain period the person bound over shall be of good behaviour, and if he is not able to give security, by incarcerating him you ensure the continuance of that good behaviour which section 109 postulates. You take him away from his surroundings and lock him up where he cannot be of bad behaviour. Therefore, I submit, Sir, that so far as section 109 is concerned, its purpose is served and completely fulfilled by incarcerating a man who is not able to give security for the reasons stated in the two clauses which I have read out to Honourable Members. Now, Sir, the Honourable the Home Member has informed this House that all the Executive Governments and the Government of India are agreed that this amendment made in 1923 should be annulled. That is a very good reason, but Honourable Members here want a better one, and that against the reason which influenced the decision of this Assembly in 1923. What answer have the Treasury Benches to give to what was passing through the minds of the Honourable Members in 1923 when they passed the amendment which the Honourable Member now seeks to revise. That is my first submission. (Mr K Ahmed "What is the necessity?") Now, Sir, my Honourable friend Mr K. Ahmed asks where is the necessity? I echo the sentiment. I could well understand if this enactment had been given a sufficiently long trial and if any cases had occurred when it was found that simple imprisonment did not ensure that good behaviour which section 109 of the Code of Criminal Procedure is intended to safeguard, then I submit a good *prima facie* case would have been made out to this House.

Now Sir there is also another thing. We have also section 110—that is sub-clause (b) of sub-section (2). I admit that section 110 stands on a somewhat different footing, but at the same time Honourable Members will remember that section 110 deals really with perpetrators of substantive offences against the Indian Penal Code. I do not wish to take the time of the House by reading through the section, I shall only read a few words to illustrate my meaning.

"(a) is by habit a robber, house-breaker, thief, or

(b) is by habit a receiver of stolen property, knowing the same to have been stolen, or

(c) habitually protects or harbours thieves or aids in the concealment or disposal of stolen property, or

(d) habitually commits or attempts to commit or abets the commission of the offence of kidnapping, abduction, etc., etc."

Section 110 therefore deals with habitual offenders and I submit that if a man is a habitual offender and has been laid by the heels for committing a crime in respect of which he has been dealt with under section 109, I do not see why he is not prosecuted and convicted or rather bound over under section 110. I admit that the case of a man under section 110 stands on a different footing; but I am now pleading for the deletion of that part which excludes section 109, and on that point Sir, I feel sure that the Government have to make out a much stronger case than they have made out in the opening speech of the Honourable the Home Member.



**Mr. H. Tonkinson** (Home Department Nominated Official) Sir, as I also took a part in the passing of the Bill of 1923, I should like to make some remarks upon this clause which is the most important clause in the present Bill. I propose to present the case of Government for this clause. It is, Sir, an absolutely unanswerable case. In the first place, it has been suggested that section 109 of the Code of Criminal Procedure, 1898, is a preventive provision in our law. Well, Sir, in English law cases practically analogous to those dealt with under section 109 are treated as substantive offences and are punishable with imprisonment for one year.

**Mr. A. Rangaswami Iyengar.** What division of imprisonment?

**Mr. H. Tonkinson.** I will come to the division of imprisonment at some length later. Let me refer to section 7 of the Prevention of Crimes Act. One part of it says

“ If, on his being charged by a constable with getting his livelihood by dishonest means, and being brought before a Court of summary jurisdiction, it appears to such Court that there are reasonable grounds for believing that the person so charged is getting his livelihood by dishonest means ”

Then again another part runs as follows

“ If he is found in any place, whether public or private, under such circumstances as to satisfy the Court before whom he is brought that he was about to commit or to aid in the commission of any offence punishable on indictment or summary conviction, or was waiting for an opportunity to commit or aid in the commission of any offence punishable on indictment or summary conviction.”

If Honourable Members will compare those provisions with the clauses of section 109 read with section 55 (1) (a), they will find that they are distinctly analogous. There are also of course very similar provisions in the English vagrancy law where such cases are again treated as substantive offences.

**Mr. A. Rangaswami Iyengar.** How do you deal with European vagrants?

**Mr. H. Tonkinson.** Our proposal is this to change the present wording of section 123 as amended in 1923 so as to enable a Magistrate in his discretion to impose a sentence of rigorous imprisonment. We do not propose to say that he must impose a sentence of rigorous imprisonment—we propose to give him a discretion.

Now in this connection I think it is necessary to refer to what simple imprisonment consists of. Section 36 of the Prisons Act says—

“ Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment.”

I wish to draw the attention of the House to the fact that it is only if the prisoners so desire that employment is provided for them. I wish, in fact, in this connection to refer to the very anomalous position in India in regard to the point that we have in our jails very large classes of persons sentenced to simple imprisonment which is of the nature I have just indicated. My Honourable friend, Mr. Rangaswami Iyengar, asks what division prisoners under the Prevention of Crimes Act were sentenced to in England. Now what are the classes of imprisonment in England? So far as imprisonment is concerned, imprisonment may be without hard labour or with hard labour. Persons sentenced without hard labour are

classified in three divisions—first, second and third. Prisoners in the first division are treated in very much the same way as prisoners awaiting trial. Prisoners in the second division are kept separate from other prisoners, and so on, but they are employed on industrial work. Prisoners in the third division are employed exactly in the same way as prisoners sentenced to imprisonment with hard labour except for the first period of one month. In that connection let me read to the House an extract from a publication by the Permanent Under Secretary for the Home Office, published in April of this year. He refers to the legal requirement in regard to the classification of prisoners in England and says

“ The first division represents the old first class misdemeanants, but the number sentenced to imprisonment in this division is almost negligible. The courts are properly reluctant to allow the luxuries of this class to persons wealthy enough to pay for them, and they are rarely given even to the political prisoners for whom they were originally intended since the time when the suffragettes sent to Holloway in the first division used the privilege of free visits and letters to conduct a political propaganda from the prison. But the distinction between the second division and the third is of great value, and the Home Office has been insistent in endeavouring to induce the courts to place in the second division all prisoners of good antecedents and to leave in the third division only those already of bad or doubtful character ”

It will be seen, then, that prisoners sentenced to the first division are practically negligible, and, as I have already indicated, they are the only prisoners who are not employed on labour. We have a further report on the same subject from a very able and experienced retired prisons official from India, who was a member of the Indian Jails Commission and has recently reported for us upon the English system of prison administration. He points out that offenders in the first division can work at their own trade and so on. Offenders in the second division are given the same labour as those sentenced to imprisonment with hard labour. Offenders in the third division are given labour the same as prisoners sentenced to imprisonment with hard labour. It is important to note how few prisoners are committed by courts to the first division which is the only analogue in the English prisons to the simple imprisonment of Indian prisons. The Governor of an English prison told me “ You might find half a dozen in the whole of England ”

Then again he goes on

“ There is now no distinction in the labour allotted to offenders in the second and third divisions of imprisonment and that given to persons sentenced to imprisonment with hard labour. Debtors also have to work. It will thus be seen that imprisonment without labour is practically non-existent in England ”

Then again he says at present in England every effort is being made to ensure continuous occupation of the inmates in all prisons. “ All Governors of English prisons would heartily concur in the dictum that an idle prison is a bad prison ”

Diwan Bahadur T. Rangachariar. Then let there be no simple imprisonment.

Mr H. Tonkinson. That of course, Sir, is the logical result to a large extent of the arguments I am adducing, our provisions as regards simple imprisonment are anomalous in the present times. Now, Sir, we are sending people sentenced and unable to find security under section 109 to simple imprisonment, the same class of imprisonment as these half dozen people in the whole of England who are sentenced to imprisonment without hard labour in the first division. The people who are dealt with under

section 109 must be known to the whole of this House. They are the ne'er-do-well, the man who will never do any work if he can help it, the man who lives by petty and sometimes by serious thieving, the vagrant, rogue and the vagabond. It has been suggested that we have not had a very long experience of this law. The Honourable the Leader of the House has referred to the opinions of the Executive Governments on the matter. I should like to refer

**Mr. D. V. Belvi** What are the grounds on which the recommendations are made?

**Mr. H. Tonkinson** I should like to refer to the reports which are just coming in on the same subject. For example, the Annual Administration Report on the Jails in the Bengal Presidency was received in the Government of India Secretariat, I think, last week. Thus is what the Inspector General of Prisons says

"Prisoners detained in jail under section 109, Criminal Procedure Code, are now given simple imprisonment and cannot be made to work unless they volunteer"

—that is of course in accordance with the provisions of section 36 of the Prisons Act which I cited—

"It is difficult to imagine anything more absurd and demoralising. From a police point of view it may be convenient to get a lot of known habitual offenders kept in safe custody, but from a jail point of view it is deplorable. It is impossible to attempt reformation under these conditions. These men contain the dregs of the criminal world, habitual thieves, burglars, *goondas* and such like are sent to jail to idle for six months or a year. They are provided with free board and lodging, have congenial companions to plan mischief for the future, and generally have a pleasant time. They enjoy the advantages of a residential club without the drawbacks of paying a subscription and monthly bills."

Well, Sir, the same is being indicated now in the Administration Reports from practically all provinces.

**Diwan Bahadur T. Rangachariar** If they make the same mistake, they have no value. Habitual offenders do not come under section 109.

**Mr. H. Tonkinson** My Honourable friend says that they make the same mistake. I say, Sir, that persons sentenced in England under such provisions would be treated as guilty of substantive offences and no one would be so foolish as to sentence them to imprisonment in the first division.

**Mr. A. Rangaswami Iyengar** You have not got five classes of prisoners here, have you?

**Mr. H. Tonkinson** I submit, Sir, it is quite clear that it is bad both for the jails and for the men concerned, and that it is a gross waste of public funds to provide that these persons who are convicted under section 109 of the Criminal Procedure Code must be sentenced to simple imprisonment.

**Mr. M. K. Acharya** Have the opinions been circulated?

**Mr. H. Tonkinson** They have been published.

**Colonel Sir Henry Stanyon (United Provinces European)** Sir, the ground in support of clause 2 given in the Statement of Objects and Reasons attached to the Bill is this, that most persons against whom proceedings are taken under section 109 are men for whom simple imprisonment is quite unsuitable. Section 109 sufficiently indicates that

these men, if not potential criminals, are idlers, vagrants, tramps, and persons who have no ostensible means of subsistence, and who cannot give satisfactory accounts of themselves. Persons of this class are apt to prey on society. They live by their wits, which generally means by fraud or crime. Now, when a gentleman of this class cannot give security for good behaviour, what is the best thing for society to do with him? Is he to be an honoured guest of the tax-payer, encouraged in a life of idleness? If so, then give him simple imprisonment. Or, is he to be made to work for his board and residence, taught to give up his idle habits and learn the healthy lesson that livelihood should be earned by work? If so, give him rigorous imprisonment. With simple imprisonment we encourage the habitual idler and vagrant, with rigorous imprisonment we teach him to work. I would ask the House not to be carried away by any exaggerated sense of the term "rigorous imprisonment." There are different degrees of work and labour, and no properly constituted jail administration would give a person of this kind anything but reformatory labour, that is to say, penal servitude, not hard labour. That is a matter of detail inside the jail. But I do think that the principle which underlies clause 2 of this Bill is a principle which ought to have the support of this House. If a man of the above class cannot give the security asked for, he should certainly be given an imprisonment in which he will be reformed and by which he will learn to work honestly for himself.

The Honourable Sir Alexander Muddiman Sir, this clause restores the law as it was before the change in the law, made without consulting Local Governments, was given effect to. That change in the law was in my judgment and in the judgment of the Government an unfortunate one. I have endeavoured to place before this House the reasons to-day, but if this House is always to take the line, that any measure in support of law and order should be turned down, then it would be well to affirm that proposition definitely. The point has been made that for failure to give security under the security sections simple imprisonment is the only suitable penalty. If that was so, why did the House retain rigorous or simple imprisonment in the case of security under section 110? (*An Honourable Member* "Habitual offenders") The reason you take security is that you have not a substantive offence, and the argument put forward—valid or invalid—is that save for a substantive offence rigorous imprisonment is unsatisfactory. We have been told that the framers of the Code, those who sat on the Select Committee, in their wisdom made this change in the law and that the House is entirely as I understand unable to reconsider the matter. The change does not seem to have been made very advisably for the Committee was not, as I understand, fortified with the opinions of the Local Governments, which have now been obtained. Of course it may be well to despise the opinion of executive officers and of Governments responsible for law and order. It may be well, I doubt it but I leave it to the House to decide. But the fact remains that a change was made as I suggest inadvisedly in the law two years ago. Since then we have had the opinion of jail officers throughout India and of Local Governments throughout India saying that it would be better

Mr D V Belvi How many cases have there been under section 109 during the last two years? Has the number gone up?

**The Honourable Sir Alexander Muddiman** I am not giving way to the Honourable Member, nor do I understand his point. What I was saying was this, that it is the definite opinion of the jail authorities in India and of the Executive Governments that it would be better to repeal section 109 altogether than to leave it in its present position. If *that* is the wish of the House, I suggest some Member should bring in a Bill to that effect. But let it be quite clearly understood that people who hold that view do desire that persons suspected of burglary and habitual vagrants should be allowed to wander about without any power of control. That is the issue.

**Diwan Bahadur T. Rangachariar** We do not want them to be allowed to wander about. Confine them by way of simple imprisonment.

**The Honourable Sir Alexander Muddiman** It has been explained at considerable length, much beyond the length this provision needs, that every jail authority, every Local Government, tells you that this section as recently amended is useless. If your suspect or sturdy vagrant is to be given simple imprisonment only it would be better not to use the section. Let me remind the House it is not a case of requiring the Court to impose rigorous imprisonment. You place it in the discretion of the Court and I appeal to this House—there are many men in this House who do understand the position—that a large number of the men who are bound down under this section are men who are arrested, as they would be in England, for lurking with intent, burglars who have been suspected. There is not the slightest political flavour about this clause, it is designed purely for the protection of your own hearths and homes, and I do trust the House will in arriving at a decision in this matter will agree that they should accept the opinion of those whose business it is to protect your hearths and homes.

**Mr President** The question is

“That clause 2 do stand part of the Bill.”

The motion was negatived by 52 votes against 51

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*Thursday, 17th September, 1925*

## THE INDIAN PENAL CODE (AMENDMENT) BILL

The Honourable Sir Alexander Muddiman (Home Member) Sir, I move that the amendments made by the Council of State in the Bill further to amend the Indian Penal Code be taken into consideration

Sir, the motion refers to the Bill which was recently passed by this House after a long debate and which has been generally referred to—though the title has been objected to—as the Age of Consent Bill. At a very late stage of the proceedings on the Bill in this House it was brought to my notice—I think by my Honourable friend Dr. Lohokare—that some protection was necessary for what I might call “vested interests” (Laughter). The Council of State have, with their usual regard for such interests, inserted a clause in the Bill which I think will commend itself to this House universally. The clause runs as follows

“Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of thirteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date”

I need say nothing in explanation of the clause which is self-explanatory. It will be noticed that it is not in form an amendment of the Indian Penal Code. It will only be put into the Bill and when the period has elapsed will drop out of the law. I think I hardly need say anything more in commending this motion to the House.

\*Sir Hari Singh Gour (Central Provinces Hindi Divisions Non-Muliammadan Sir, I feel that I shall be leading a forlorn hope if I resist the motion of the Honourable the Home Member, but I cannot refrain from making a few observations on the general policy which has dictated the acceptance of this amendment in another place. When the Indian Penal Code was enacted in 1850 Lord Macaulay's Committee for the first time created and penalised several offences which were not then offences at all. When the age of consent or so-called consent was fixed in the Bill of 1850 there was no reservation of vested interests. Later on, in 1891, after a prolonged and heated controversy which gathered round the question of age when the Government at last did raise it from 10 to 12 there was no attempt at any reservation of vested interests. And, Sir, on the last occasion when I introduced a similar Bill this House considered it clause by clause and passed the various stages after such amendments as it considered necessary. But there was no saving clause. It is true that on the third reading of the Bill it was defeated, thanks to the whip applied at the last moment by the Honourable the Home Member, but even then there was no question of reserving any vested rights. We are introduced to this for the first time after the Bill has been passed by a record majority in this House. But what is the underlying principle of it all? The underlying principle of it all is, Sir, that husbands have got a vested right to ravish girls between the ages of 12 and 13 if forsooth they were married to them before this Bill comes into force. I understood that the protagonists of orthodoxy in this House indignantly repudiated that they ever had recourse to their wives before they attained the age of puberty, and we were assured that public opinion throughout the

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\* Speech not corrected by the Honourable Member

country would have revolted against any idea of a husband ravishing his wife when she was a girl of 12 or 13. That I submit, Sir, was the fulcrum of the opposition led by the orthodox wing of this House, and it is for that reason that nobody suggested the addition of a saving clause. But we live and learn. In another place we have been presented with a legislative proposal in favour of the husband where the wife is in the concept of law relegated to the position of a chattel or inanimate thing. The husband, if he marries her, of which she has probably no real consciousness, is entitled to defy her in spite of her refusal and despite the fact that he has laid in store an everlasting disease of which she may die, or beget children who will probably die before they are many months old. In spite of the risk of infanticide and matricide the pillars of orthodoxy in another place have chosen to make a proposal which I venture to submit is an insult to the intelligence of this House. Sir, I would have resisted it with all my might and main were it not for the fact that this is the last day of the Session and I have no doubt that if I had taken upon myself to oppose this measure my friends in this House would have rallied to my support and given me that generous support which I have always received from them here in spite of the opposition to which social reform in this House has been subjected from certain quarters. But even they have admitted to me in the privacy of their confidences that I was right and they were wrong but that they had to do it because the masses were not yet prepared for legislation of the kind for which I had made myself responsible.

Sir, before I close I thank them and the Honourable Members of this House who with their support and votes have made this reforming measure a near possibility after the lapse of thirty-four years, and I cannot refrain from thanking the Government and the Honourable the Home Member that he has reciprocated the sentiments expressed by this House and by the Select Committee by giving us half the loaf. I hope he will remember that I am still crying and crying aloud for the other half, which I hope he will not deny to me in the next Session after the public and the provinces have been consulted upon my Bill.

**Dr K G Lohokare** (Bombay Central Division Non-Muhammadan Rural). Sir, I am not of that orthodox type that my friend Dr Gour would think me to be, since he knows well that at the last time I voted with him on every one of his amendments. It was just with an idea to remove an anomaly which I thought did exist, that I suggested a remedy and put in an amendment in this House which unfortunately was out of order on account of the time limit. I know of instances where consummation has already taken place in cases of marriages between 12 and 13 and yet the raised age limit is not reached by the time this Act comes into operation. This being a recurring offence it is just possible that persons who did not dream of the Act being applied to them would be thus sent to jail under the new Act that is being passed. It is with a view to remove that anomaly that I suggested an amendment preventing this retrospective effect and if that could be called a contribution to infanticide and the killing of mothers, well I am sorry my friend is either mistaken in understanding the situation or has misunderstood me. I think such a provision ought to have been made and I am thankful to the Honourable the Home Member for paying attention to this matter.

Mr President The question is

“ That the amendments made by the Council of State in the Bill further to amend the Indian Penal Code be taken into consideration ”

The motion was adopted

Mr President The question is

“ That this House do agree to the following amendment made by the Council of State

‘ That the following clause be inserted after clause 3

‘ 4 Notwithstanding anything contained in section 2 sexual intercourse by a man with his own wife is not rape although the wife has not attained the age of fourteen years, if he was married to her before the date on which this Act comes into operation and she had attained the age of twelve years on that date ’ ”

The motion was adopted

Mr President The question is

“ That this House do agree to the following amendment made by the Council of State

‘ That clause 4 be renumbered clause 5 ’ ”

The motion was adopted

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## PART II.

### Extracts from selected speeches delivered in the Council of State.

*Friday, 11th September, 1925*

#### RESOLUTION *RE* RECOMMENDATIONS OF THE MAJORITY REPORT OF THE REFORMS INQUIRY COMMITTEE

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I move.

"That this Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government"

Sir, when I first set myself to consider by what arguments I could best commend this Resolution to the House, the feeling predominant in my mind was a sense, an almost overwhelming sense, of the magnitude of the problem implicit in what appears a simple, and in the opinion of some, a limited or even an unimportant proposition. What we have immediately to deal with may be an episode, but it is an episode in two great, as I believe, converging streams in a very great transaction, the contact and ultimately the identification of the political future and destiny of India with the contribution made by British institutions not only to India but to the civilized world. The first necessity is to endeavour to see this problem in its true perspective, a perspective not only of dimension but of time. England has succeeded, whether for good or ill only a remote generation can judge, in impressing upon western civilisation her own ideas of political institutions. We are now engaged in the formidable task of applying those ideas to an eastern civilisation and an eastern environment. Whatever view may be held of the wisdom or of the probable success of this enterprise, no one at any rate can deny that it is heroic. In the attempt to organise human society on a rational and comprehensive basis it has only one parallel in human history, and that is only an imperfect parallel, which exhausted its effort at a stage where the English genius had the courage and the inspiration to begin. The parallel I have in mind is the system of Roman law, arising at first as the common law of a small city state, and culminating as the unifying and governing element of the whole of the then western civilized world and a considerable proportion of the eastern. That, Sir, was a great and memorable achievement, so great and so memorable that, unless all record of human thought is lost in some great catastrophe, it is inconceivable that any system of civil law should now be devised or continued without reference to the great canons of the Roman tradition. But in the realm of political institutions the English tradition has taken a place certainly not inferior to the Roman tradition in law, and it is with this, in its application to the needs and aspirations of India, that we are now concerned. Now, Sir, we have seen the English Parliamentary system gradually adopted, more or less completely, and with greater or less success,

not only in all western countries but also in nearly every new political organisation throughout the world that has come into being since the time of the French Revolution. We have seen it continued and developed in all the overseas Dominions, which, from their foundation, took with them the soil and the seed from which those institutions originally sprang, and we have seen it transplanted or imitated in circumstances greatly dissimilar from those of its origin. But even in its native soil, with all its vast extensions, new conditions have arisen, new problems have been propounded, which are now the anxious pre-occupation of statesmen, and will be a text for the historian; new conditions and new problems, which, it seems probable, are destined seriously to affect and perhaps profoundly to disturb this ancient and deep-rooted structure itself. Here in India we have set ourselves to apply these institutions on a scale and under conditions for which we have absolutely no guide or precedent. We are applying principles which were devised for their own purposes by a comparatively small, homogeneous community, to a country with a population of 320 millions, and perhaps a greater diversity of race and culture than is to be found in any equal area of the world's surface. The enterprise is formidable and I should find it appalling had I not the faith that in these institutions, if they are wisely and prudently applied and with due observance of the spirit which informs them, there is an inherent virtue of adaptation, of development and of catholicity. I think I am not alone in that faith. I think it is now clear, and I may draw that inference from the amendments which are on the paper to-day, I think it is clear that the leaders of political thought in India have themselves definitely elected and declared that the political progress of India must proceed on and be governed by these principles. But while I welcome that election and that declaration, I must entreat those who make it to recognise the vast dimensions of our common enterprise.

Sir, I said that we had to view it in a perspective not only of dimension but of time. I quoted, as a parallel in some respects to Parliamentary government, the case of the Roman law. Now from the promulgation of the Twelve Tables to the great codification in the time of the Emperor Justinian was a period of nearly 900 years and neither of these events was either the beginning or the end of that great impetus of thought, the effects of which have extended from the Thames to the Ganges and from the old world to the new. Sir, if we reckon the history of Parliamentary institutions only from the reign of Edward I, that was over 600 years ago, and this history so far from having yet reached any finality is now at a stage of crisis and of new development—in depths and in regions hitherto unplumbed and unexplored. Now I am not suggesting that India too must wait for her share of the heritage for a period of centuries. We have the great advantage of being able to start at a point which took many generations of human experience to achieve, but I do urge that the fact that the inception of responsible government in India is not yet 6 years old must be alleged, not simply as a political plea, but as a practical truth of the greatest weight and significance. I would therefore ask the House to enter upon this matter with a clear recognition of its magnitude and its moment, to recall the conditions by which our further progress must be regulated and to examine in that spirit the Resolution which I have moved. On the magnitude of the

problem I have said as much as is perhaps necessary and certainly as much as in the time at my disposal is possible. In the conditions which must regulate our further progress I include those which proceed from the law and the constitution and those which independently of all such considerations, are necessarily and inevitably inherent in the task itself. The first of these, the legal and constitutional conditions, are sufficiently recited in the preamble to the Government of India Act, 1919, which states the fundamental doctrine of the responsibility of Parliament—the doctrine that the time and manner of each advance towards responsible self-government in India can be determined by Parliament alone. It is as unnecessary as it would be impossible for me to examine this doctrine on its warrant in history, in law or in morals. It is unnecessary because, Sir, I think that all responsible political opinion, however divergent in other matters, is agreed on this, or at least it is prepared to accept it as the basis of all practical discussion. We must satisfy Parliament, as we must satisfy the tribunal that Parliament is to set up to examine and report on all the claims and on all the evidence we must satisfy Parliament in regard to every step that we propose should be taken.

Now, Sir, apart from these the constitutional and legal conditions under which we must work, I spoke of other conditions which need no constitutional warrant and are inherent in the task. Of these the most important in my judgment are these. Firstly, we must use to the full all the resources in our possession, discarding none till its utility has been fully tried and found wanting. Secondly, having regard to the vast interests committed to our charge and the disastrous consequences of yielding to a hasty impulse or to a rash speculation we must be patient, prudent and circumspect. Thirdly, and most important of all, we must all work together, for this enterprise is too great to be undertaken by any single authority or by any party or by any school of thought working in isolation or, still worse in antagonism with others. Now this cannot be done without much patience, much mutual forbearance and assistance. As I see it the co-operation invited and required by the Secretary of State and His Excellency the Viceroy is not merely a stipulation made by one party to the negotiation. It is a plain and candid statement of a fundamental condition for the solution of the problem which lies before us both and without which neither can succeed. I earnestly invite the House to consider the Resolution in this spirit. In the first place it affirms a principle, the principle which defines the main divergence between the majority and the minority report. What is that principle? It is this, that the Government of India Act is a great measure of political advance which has yielded most important and valuable results, that its potentialities should be further tried and utilised and that the measures requisite to remove any administrative imperfections experienced in its working can and should be adopted. At least one section of the critics of that report take the position that the Act is radically incapable of working or is so defective that no adjustments or running repairs are worth the time or the attention devoted to them. Now I contend that such a position is wrong, wrong in its premise and doubly wrong in its conclusion. It is wrong in fact because the Act is undoubtedly in operation. Legislatures are meeting, laws are being enacted supplies are being voted or refused and with two exceptions the existence of which cannot reasonably be imputed

to the Act, the administration of this great country is being carried on in accordance with the provisions of that Act. To those who despise adjustments and running repairs I would suggest that in operating a great and complex machine these may be the immediate and sufficient requisites for its efficient working. At any rate those critics can only prove or provide practical evidence of their contention by an honest and persevering attempt to work it in accordance with the intentions of the designers. If such an attempt is made by the joint efforts of all those for whom it was designed, and if their attempt clearly and definitely fails for causes clearly and definitely to be attributed to the machine, then at least we shall have some presumptive, some tangible evidence, but not till then. We have no reason to suppose that such an effort is doomed to failure because it has not yet been made.

Sir, any premature and impatient discontent with the very real achievements of the last five years is not calculated to accelerate our progress. You will not achieve a difficult and distant goal by constantly changing your starting point or quarrelling with your companions in the caravan. Continuity is one of the essential conditions of development and in the constitutional history of England continuity and adjustment are the most fruitful and the most familiar incidents. If we are indeed committed—and of this there can be no doubt—to the task of adopting for and adapting to Indian requirements British political principles and methods, should we be wise—to say nothing of logical and consistent—if at the outset we repudiate and discard the most characteristic and the most essential, if not of those principles at any rate of those methods? Continuity and adjustment are and have always been the deliberate and instinctive aims of English constitutional policy. They have permeated its history, they have been present in an active form in every phase of that history which records any permanent stage of progress, however arbitrary or violent the concomitant events may have been. Continuity and adjustment are, if you will examine it, the pith and the marrow of the majority report, not as things drawn from an obsolete and stereotyped code, but as the application to a new range of conditions and demands of a tradition which is not only ancient and well-tried, but vital and active, a force which is still the most hopeful and energetic in a world which without it might well be a world of despondence, disillusion and despair.

Sir, the great system of government which was set up in this country before there was any clearly defined or deliberate intention of instituting self-government, was based on another and perhaps an even more fundamental element in the British tradition—the rule of law, the impulse of construction and the ineradicable instinct of inducing order and liberty out of chaos and oppression. It may be that these conceptions go deeper and are destined to be more permanent than the expedients, more generally recognized and accepted, of Parliamentary Government itself. But this great system of government, elementary as in many respects it was, had two characteristics which proclaim its origin and its legitimacy. In the first place it was directed in an austere and practical spirit to the immediate requirements of the country at that time, and it was directed, consciously or instinctively, towards a wider and further goal which would permit of an ultimate ideal of self-government. That system has perhaps fulfilled its purpose

and delivered its message We are now at the stage for which it prepared the way That system derived its main direction and inspiration from England, though it did not reject the wisdom and experience of its predecessors in India But we have now arrived at a new order of things in which unity and co-operation between England and India are essential India has elected to accept British conceptions of self-government as the basis of her own political evolution But let us remember that if these institutions offer a great prize they demand also a severe discipline In the words of Milton "The immortal garland is to be run for not without dust and heat"

Sir, is it unreasonable for us to ask that those who deem it to then interest to enter with us into this great tradition and to be co-heirs with us in this great heritage should also accept the limitations, the discipline and if necessary the delays which we, a nation not remarkably patient of limitations or of discipline or of delays, have been compelled to accept by the hard lessons of our own long experience and by the ineluctable dictates of our convictions ?

THE HONOURABLE MR PHIROZE C SETHNA (Bombay, Non-Muhammadan) Sir, I beg to move the following amendment

"This Council recommends to the Governor General in Council "

THE HONOURABLE THE PRESIDENT Will the Honourable Member move it as an amendment ?

THE HONOURABLE MR PHIROZE C SETHNA I did say so, Sir

THE HONOURABLE THE PRESIDENT Will the Honourable Member move it as a substitution for the original Resolution ?

THE HONOURABLE MR PHIROZE C SETHNA Sir, I move to substitute the following for the original Resolution .

"This Council recommends to the Governor General in Council that he be pleased to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying the following fundamental changes in the present constitutional machinery and administration of India

- (a) The Revenues of India and all property vested in or arising or accruing from property or rights vested in His Majesty under the Government of India Act, 1858, or the present Act or received by the Secretary of State in Council under any of the said Acts shall hereafter vest in the Governor General in Council for the purposes of the Government of India
- (b) The Governor General in Council shall be responsible to the Indian Legislature and subject to such responsibility shall have the power to control the expenditure of the Revenues of India and make such grants and appropriations of any part of those Revenues or of any other property as is at present under the control or disposal of the Secretary of State for India in Council, save and except the following which shall for a fixed term of years remain under the control of the Secretary of State for India
  - (i) Expenditure on the Military Services up to a fixed limit
  - (ii) Expenditure classed as political and foreign
  - (iii) The payment of all debts and liabilities hitherto lawfully contracted and incurred by the Secretary of State for India in Council on account of the Government of India

- (c) The Council of the Secretary of State for India shall be abolished and the position and functions of the Secretary of State for India shall be assimilated to those of the Secretary of State for the self governing Dominions save as otherwise provided in clause (b)
- (d) The Indian Army shall be nationalised within a reasonably short and definite period of time and Indians shall be admitted for service in all arms of defence and for that purpose, the Governor General and the Commander in Chief shall be assisted by a minister responsible to the Legislature
- (e) The Central and Provincial Legislatures shall consist entirely of members elected by constituencies formed on as wide a franchise as possible
- (f) The principle of responsibility to the Legislature shall be introduced in all branches of the administration of the Central Government subject to transitional reservations and residuary powers in the Governor General in respect of the control of Military, Foreign and Political affairs for a fixed term of years

Provided that during the said fixed term the proposals of the Governor General in Council for the appropriation of any revenue or moneys for military or other expenditure classified as 'Defence' shall be submitted to the vote of the Legislature, but that the Governor General in Council shall have power, notwithstanding the vote of the Assembly, to appropriate up to a fixed maximum any sum he may consider necessary for such expenditure and in the event of a war to authorise such expenditure as may be considered necessary exceeding the maximum so fixed.

- (g) The present system of Dyarchy in the Provinces shall be abolished and replaced by Unitary and Autonomous Responsible Governments subject to the general control and residuary powers of the Central Government in inter-provincial and all-India matters
- (h) The Indian Legislature shall after the expiry of the fixed term of years referred to in clauses (b) and (f) have full powers to make such amendments in the constitution of India from time to time as may appear to it necessary or desirable.

This Council further recommends to the Governor General in Council that necessary steps be taken

- (a) to constitute in consultation with the Legislature a convention, round table conference or other suitable agency adequately representative of all Indian, European and Anglo Indian interests to frame with due regard to the interests of minorities a detailed scheme based on the above principles, after making such inquiry as may be necessary in this behalf,
- (b) to place the said scheme for approval before the Legislature and submit the same to the British Parliament to be embodied in a Statute "

Sir, the Reforms Inquiry Committee was appointed by the Government in answer to a general demand from the Legislature and the general public for a further advance in the reforms and also for improvements in the existing machinery of Government as laid down in the Act of 1919. The Report was published six months back. No action was taken on it till now. This, I take it, was principally due to the proposed visit of His Excellency the Viceroy to London to consult the Secretary of State for India. The public did not mind this little delay, because it was expected that as a result of those deliberations between Lord Reading and Lord Birkenhead the outcome would be such as would enable us to expect the fulfilment of our wishes and aspirations even to a limited extent. In this we have been disappointed. All that we have had are two speeches, one about two months ago from the Secretary of State and the other about three weeks back by His Excellency the Viceroy on the occasion of the opening of the two Houses on the 20th of last month. These

speeches do not take us any farther and now on the top of it all we have a Resolution proposed in this House by the Honourable the Home Secretary asking us to accept the principle underlying the majority report and to request the Governor General in Council to give effect to the recommendations made in the majority report

Sir, the Committee consisted, as we know, of nine members, five of them formed the majority and the other four formed the minority. If one of the majority had sided with the minority, the tables would have been turned, and what is now the minority report would have become the majority report. And I ask if that event had occurred would Government have pressed the acceptance of such a majority report? I may proceed to answer the question myself by saying that, judging Government from their present attitude, they would most certainly have not done so but would have endeavoured to wriggle out of the position as best they could.



why it is that every single Indian, without a single exception, who has held the highest positions in the land, men like Lord Sinha, Sir Ali Imam, Sir Sankaran Nair, Sir Tej Bahadur Sapru, Sir Chimanlal Setalvad, Mr Chintamani, Mr Jagat Narayan and others, all of whom without any exception whatsoever, as soon as they left Government service, have expressed themselves more freely, have sided with and supported the popular view which as we can well understand they could not very well do when holding Government appointments. That, Sir, is a fact which Government cannot deny, but if I have made this remark in regard to Indians who have held high Government appointments I say that this applies equally to Europeans, for are we not aware of the fact that even amongst Europeans there are many from Vice-roys downwards who have expressed themselves reservedly when in office, but once they have left office they have let themselves go and have sympathised with Indian aspirations that India should advance faster in the matter of political progress. I emphasise this point, because I hold that if the Committee were held some months later, and if it had the same personnel, Sir Muhammad Shafi, because he would have ceased to be Law Member, would have unmistakably sided with the minority which perhaps he could not very well do as Law Member. I am not making any rash statement nor am I hazarding a guess. I draw my inference from what fell from Sir Muhammad Shafi himself when he was interviewed by a representative of the Associated Press soon after he gave up office. And were not his words quoted in the House of Lords by Lord Olivier who attached the same significance to Sir Muhammad's words? Therefore, it is a positive misnomer to call the reports majority and minority reports. It would be very much better to call them report A and report B.

Sir, is it any wonder, in spite of all that has fallen from the Honourable Mr Crerar, that the Indian public and the country at large do not attach that importance to the majority report as they do to the minority report? Is it fair on the part of the Government, I ask, to brush aside all the recommendations which have been made by the minority? As the Government know, the Committee were almost equally divided, and it would have been only fair, therefore, for Government to have included in their Resolution to day, if not all, at least some of the most important recommendations made by the minority. You Mr President, I understand, were personally responsible for the preparation of Appendix II to the majority report in which you have given a list of the sections of the Government of India Act and details in connection therewith to show the legal and constitutional possibilities of advance within the Government of India Act. My Honourable friend Mr Crerar in this Resolution has absolutely ignored those recommendations.

It seems that the Government must possess a very curious notion of the intelligence of the Indian Legislature and of their sense of responsibility if they expect the Indian Legislature to subscribe to this Resolution as it has been framed a measure which I consider both illiberal and unstatesmanlike and which so flagrantly and definitely, and may I add so defiantly, runs counter to the wishes of both the Legislature and the public, and what is more, a Resolution which is not subscribed to by such eminent men as Sir Tej Bahadur Sapru, Sir Sivaswamy Aiyer, Dr Paranjpye and Mr Jinnah, for

all of whom Government as well as the public have the highest respect and on the first three of whom Government when it suited them to do so have on more than one occasion showered encomiums for the moderation and the sobriety of their views

I take no credit for drafting this amendment. As the House is aware, it is identically the same amendment as was moved in the other place and carried there three days ago by the overwhelming majority of 72 to 45. I say advisedly an overwhelming majority, because the minority consisted mainly of Government officials and perhaps of the European elected Members. I make bold to say that if the Indian officials in that House were left free to vote according to their conscience, they would not have helped to swell the number of the minority to 45. Sir, the views that are embodied in the amendment are the considered views of the leaders of the different nationalist parties in the other place and elsewhere. It is their joint draft, and it is a draft which is in consonance with the views expressed by the Chairman of the Liberal Federal Association only the other day in Poona. I compliment my Swarajist friends in agreeing to the proposals as embodied therein and I regard that as a distinct gesture on their part of their willingness to co-operate with Government, and it will be a positive mistake on the part of Government if they do not take advantage of that gesture.

Sir, in the limited time at my disposal it will not be possible for me to explain to the House the amendment clause by clause nor is it necessary, because it is nothing else but a summary of the recommendations of the minority report and what the country has been clamouring for for quite a long time. What I wish to point out to the House to-day is that evidently the attitude of the Government as also of the Secretary of State to-day is very different from the attitude of both the Government of India and the Secretary of State displayed two or three years back. I will take the House back to the year 1921 when in the other place, on the 23rd September, one Member, Mr Majumdar, brought forward a Resolution for further reforms. The Government did not actually oppose it. What was its attitude then? The then Home Member, Sir William Vincent, requested the House to accept his own amendment. The amendment which that House passed almost unanimously (for there was one dissentient, Mr Price of Karachi) was the Government amendment, and it was as follows:

"That the Assembly recommends to the Governor General in Council that he should convey to the Secretary of State for India the view of the Assembly that the progress made in India on the path to responsible government warrants a re-examination and revision of the constitution at an earlier date than 1929."

That, I repeat, was the Government amendment. The Home Member evidently did not speak for himself alone. He spoke for the Government of India and I would not be surprised if he spoke as he did with the approval of the then Secretary of State, Lord Peel. Sir William Vincent was most sympathetic in his speech, but he was not alone in such sympathy. I will ask the House to listen to the words of the then Finance Member, Sir Malcolm Hailey, now His Excellency the Governor of the Punjab. In supporting the amendment, he observed:

"Surely now the only practical and reasonable end to this debate is, that we should convey to Parliament the opinions that we have heard expressed in this House that it

ought not to wait ten years before the Parliamentary Commission investigates the whole question of further amendments in the constitution which has been granted to India."

The House waited for the opinion of the Secretary of State That followed nearly 18 months later, and it was

"that it was too early to ask Parliament to revise the constitution but the Act contained within itself sufficient materials for expansion of the existing constitution"

That was the opinion of Lord Peel It was on this opinion that another Member of the other place, Dr Gour (now Sir Hari Singh Gour) on the 18th July, 1923, moved his Resolution that "the further possible powers within the Act should be put into force" That was not done and last year Pandit Motilal Nehru, again in the same House, moved his Resolution in regard to further reforms, in answer to which the Reforms Inquiry Committee was appointed I have given these particulars to show that the attitude of the Government of India two or three years back was entirely different from what it is to-day The Government of India then as now was presided over by the same Viceroy, Lord Reading Evidently, therefore, Lord Reading's opinion has not changed We have not Sir William Vincent now as Home Member, but we have Sir Alexander Muddiman, whom, knowing as I do personally, and as Members of this House know themselves, we credit with having equal, if not greater, sympathy than Sir William Vincent towards Indian aspirations Where then is the rub? The explanation is simple The opposition is evidently not from Delhi, or Simla but from Whitehall, and we need not be surprised, because the party in power to-day is the Conservative Party, and for the Secretary of State we have a Conservative in the person of Lord Birkenhead This explains the present attitude of Government.

The gist of my Honourable friend Mr Crerar's speech, as far as I can make out, is that we should be patient, prudent, and circumspect, and we should not try to run too fast He has told us that it took 900 years from the promulgation of the Twelve Tables to the codification of the laws by Justinian He has also told us how long it has taken the British Parliament to advance to its present stage All I would like to say in reply is that there is some little difference between human beings and quadrupeds The lower animals have to start at the bottom every time Human beings begin at the stage left off by those who went before them Therefore, if we begin to-day we can undoubtedly proceed at a much faster rate profiting by the experience of others I can give my Honourable friend no better instance than that of America and Japan America did in 150 years what it took Europe more than a thousand years to accomplish, and Japan has done within less than half a century what America did in 150 years and what Europe took a thousand years and more to do It is therefore perfectly legitimate for us to ask for further reforms We are confident that we have progressed to an extent that we are now ripe for them, and if we are to take Government at their word and at their professions we regard it as their bounden duty to give us what we ask for in my amendment

Sir, the Secretary of State in his speech has asked all parties in India to unite and to put before him a scheme which he will consider His

Excellency has asked us to co-operate with the Government. The amendment which was moved in the other House and which I am placing before you to-day answers the demands made both by the Secretary of State and His Excellency the Viceroy.

Here we put before you a concrete scheme. Here is willingness on the part of that national party which opposed Government at all times to drop such opposition and to co-operate. And if Government do not choose to accept it, the blame will lie with Government and not with us. Until our demand is favourably entertained it will be the bounden duty of the Indian Legislature and the Indian public to persist in such demand because we regard it as our due and which we ought to obtain as soon as possible. I cannot expect Government Members to support my amendment but I appeal to all elected Members that they will vote with me and thereby convince Government that the elected Members of both Houses of the Central Legislature are in perfect unanimity on this very important question.

THE HONOURABLE THE PRESIDENT. Amendment moved.

"That for the original Resolution the Amendment read by the Honourable Mr Sethna be substituted."

I do not think that I should weary the Council by reading it over again.

THE HONOURABLE MR V RAMADAS PANTULU (Madras Non-Muhammadian). Sir, the amendment which stands in my name is substantially the same as that moved by my Honourable friend Mr Sethna. The House will notice that there are only certain verbal alterations in clause (c) of the first part of the amendment on page 1, and in clauses (a) and (b) of the second part on page 2. With your leave I shall mention that in clause (d) of the first part the word "Assembly" seems to be a mistake for "Legislature". I remember to have corrected it when I sent it to the office. It must be a *lapis calami*. I hope I have your permission to correct it.

THE HONOURABLE THE PRESIDENT. Yes.

THE HONOURABLE MR V RAMADAS PANTULU. In order to understand the full import and implications of the amendment which stands in my name I think it is my duty to give you a brief history of this amendment. The origin of it goes back nearly to the commencement of British connection with India. This debate involves three issues which were very pertinently raised by the Honourable Mr Crerar in his opening speech. The issues are, *one*, has Britain a divine, legal or moral right to continue to rule India as a dependency? The *second* issue is, have the Indians got a right to govern themselves, or in other words, is Swaraj their birth right? If the first issue is answered in the negative and the second issue in the affirmative, the third issue arises, namely, what is the best and the quickest mode of transference of power from the British to Indians? I think, Sir, the Resolution deals with the third issue. Unless we dispose of the first and second issues the third issue does not arise. Therefore, I beg to state very briefly, as the Honourable Mr Crerar himself has done as regards the British case, what the Indian case is. On the first and second issues our

case is unhesitatingly that Swaraj is our birthright. We are entitled to govern ourselves and the British have no divine, legal or moral right to continue to rule this country as a dependency. I use the word "dependency" advisedly because we are at present not necessarily wedded to a policy of attaining Swaraj or self-government outside the British Empire and are not unwilling to continue as partners with equal rights. Our formula is to attain self-government within the British Empire if possible and, if not, without it. The creed of the Indian National Congress is deliberately made elastic to admit of these two positions, it is the attainment of Swaraj by legitimate and peaceful means. Therefore, Sir, in the first place in answering these issues we deny most emphatically the claim of the British Bureaucracy to play the role of Deputy Providence to Indians. Their theory of trusteeship, their talk of a civilising mission and all thatrodomontade we emphatically deny. We hold also that apart from the divine or legal claim the British have also no moral claim to continue to rule India. That moral claim is based upon its past record and the great good which it is alleged to have done to the Indian people. Here again we deny that. We hold that after 150 years of British rule we are poorer, weaker, and more disunited, and disorganised than we were before they came to this country. You claim that peace and order are the two great achievements which you have accomplished in this country. But, Sir, we hold that the peace which you claim to have established is the peace of death, of a disarmed and helpless nation, and the order which you claim to have established is the order of slaves and human cattle who are dumb driven, which is the order of the prison house. With regard to economic and other conditions I can quote the testimony of many authorities to show that India has not improved under British rule. But I will quote a small sentence from a predecessor in office of Lord Birkendhead, the Duke of Argyll, who said

"We know indeed of poverty and destitution, more or less temporary in European countries. But of chronic poverty and of permanent reduction to the lowest level of subsistence such as prevail only too widely among the vast population of rural India we have no example in the western world."

That is the testimony he gives to British rule in India. And after 150 years of exploitation India is poorer, economically crippled, industrially helpless and dependent upon foreign imports for subsistence. Therefore we are agitating for Swaraj. In the course of the agitation there emerged the declaration of August 20th, 1917, and later on the Government of India Act. That declaration and the Preamble to the Government of India Act are both unsatisfactory and opposed to the aspirations of Indians. Nevertheless there is one point in both of them which disposes of the first two issues. There is a recognition of India's right to self-government and also a recognition of the fact that Britain is not to rule for ever over India. The right to attain self-government is conceded. Therefore it is we have really entered on the third issue as to the mode of transference of that power from Britain to India. Recognising the limitations of that struggle we wanted to get a measure of responsible government and all our agitation has only resulted in the Government of India Act, 1919. The Congress disapproved of it, the Moslem League disapproved of it and the public of India disapproved of it. Therefore the Congressmen, who disapproved of the machinery devised for the transference of power from Britain

to India, have not taken any share in the working of the reforms in the first stage of their inauguration. We have left it to those people who had faith in it to do so. I will at this stage refer to page 152 of the minority report which says that as non-co-operators stood out of these Councils in 1920 the people who had faith in the reforms entered the Councils and worked them in an atmosphere which was most congenial to their success. Nevertheless they have found that machinery to be insufficient, inadequate and unsatisfactory, we then entered on the second stage of the struggle. In 1923 we, the Congressmen, thought that if Government were not going to devise a machinery which is proper and suitable to attain this object, the best thing would be to go into the Councils, to destroy the one which they have set up and to get another instead. No doubt we began with the object of destruction. We thought that no construction was possible without destruction.

THE HONOURABLE SIR ALEXANDER MUDDIMAN I am sorry to interrupt the Honourable Member, but does he still adhere to that policy of destruction?

THE HONOURABLE MR V RAMADAS PANTULU We began by destroying. We are attempting to try and see whether it is possible to build up. In 1924, when the Swarajists entered the Assembly, they presented the united demand of the nation. That demand stands good to-day. The only answer that was given by Sir Malcolm Hailey was that Government would only set up an official committee to inquire into what progress was possible within the Act. His statement was followed by the appointment of an official committee which held its meetings in secret conclave, and made a report. That was followed by the report of the majority of the Reforms Inquiry Committee which majority was practically composed of a majority of officials. Therefore there is no virtue in calling it a majority report. The minority report, and every Indian who had any stake in the country, every Indian who had held any responsible office under the Reforms Scheme and every publicist of note who had the welfare of India at heart, condemned the system of dyarchy which was set up by the reforms, only the Indian Civil Service and the European half of the reserved department spoke in favour of dyarchy. Nevertheless the majority report without any evidence held in favour of the continuance of dyarchy. If the decision of the majority is carried on appeal to a court of law, it would have called upon the respondent and reversed the judgment embodied in that report without hearing the appellant. There were nine jurymen on the bench. The verdict was 5 to 4. One of the jurors gave his verdict while he was in durance under official shackles and he afterwards said that his verdict was wrong. If the verdict was 5 to 4 in a criminal trial no criminal could be convicted and the jury should be discharged according to our criminal jurisprudence. The verdict should at least be 6 to 3 to be valid. So the verdict of the majority report is worthless and should be scrapped. That is the report which you now want to enforce. We say we shall not be parties to it.

There have been two pronouncements since the report was issued, one on the 7th July by Lord Birkenhead and the other on the 20th August by Lord Reading. In both these pronouncements there are two matters of outstanding

importance. One is that we should work the scheme for what it is worth and the second is that if we find it unworkable we should propose some other constitution. With regard to the first, we absolutely refuse to work the scheme. It has been pointed out that the scheme is unworkable and we are not going to try to do a thing which is impossible. Within the time at my disposal it is not possible to quote authority in favour of my position that it is unworkable. It has been fully established by evidence. With regard to the second portion, we have suggested a scheme in this amendment. We have got a scheme which consists of two parts. In the first part we have indicated certain definite principles upon which any negotiation between you and us is possible. If you accede to these principles we go to the second part. You may have a round table conference, convention or whatever you like. We will sit together and try to frame a scheme which will suit the needs and requirements of India and which will be in accordance with the principles which we have enunciated here. Those principles are very clear. There should be transference of power from British to Indian hands. The Secretary of State for India's Council is to be abolished. He has to become responsible to Parliament in the same way as the Colonial Secretary. The Indian Legislatures shall be wholly elected, and so on. The scheme is not a new scheme. Ever since the Indian National Congress came into existence we have been agitating for these things. There is a consensus of opinion in the country. Yesterday I read a speech by Mr Chintamani in which he said that this amendment is really a page torn from the proceedings of the Liberal Federation. This amendment embodies a demand on which there is a unanimity in the country. In the Assembly, Hindus, Mussalmans, Parsis, Christians, all joined in voting for it. Therefore this is now the united demand of the nation. This is the demand which we bring before you. In some quarters it is suggested that the Swarajists have receded from their original demand. I emphatically deny this allegation. The Resolution as passed in the Assembly has a preamble, reiterating and affirming its demand of 1924. Not a word of this amendment is inconsistent or incompatible with the demand that was made in January 1924. I omitted that preamble because it would not be in order in connection with this Resolution in this House. Therefore the demand of the Assembly remains unaltered. We are going to agitate for it and for its acceptance by the Government. When it is accepted and a declaration is made in Parliament, accepting its principles, then and then only shall we sit in a round table conference or agree in any other way to discuss with you. If you discard these principles, then we come to the parting of the ways.

Even Moderates have joined in the demand as embodied in the amendment and no difference of opinion exists. It was pointed out by Sir Maneckji Dadabhoi the other day that all Moderates are at heart Swarajists. It is said "scratch a Moderate and you will find an Extremist." It is true because all of us want Swaraj as against the foreign rule.

THE HONOURABLE SIR MANECKJI DADABHOY You are not correctly representing me.

THE HONOURABLE MR V RAMADAS PANTULU I say, Sir, let Government accept this as the common amendment of all parties in the country.

and as a complete answer to Lord Birkenhead and Lord Reading. Many proposals have been put before Government in the past. There was the 19 memorandum. There was the Congress-League scheme which they never considered. And what are they going to do now? It does not matter to us whatever they may do. We are willing to co-operate with them on honourable terms. But if they throw our co-operation to the winds, there will be again only one course left open to us, namely, non-co-operation, passive resistance, and civil disobedience. It is the creed of the Congress to achieve Swaraj by all peaceful and legitimate means. Our determination stands there. We only want to give Government an opportunity to show that we are willing to co-operate. If they do not co-operate with us, and do not accept this amendment and make a declaration of policy embodied in it the whole blame will be with them and not with us.

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member) Sir, before I proceed to deal with the points raised by the amendments which have been moved which are in effect in spite of the change made by my Honourable friend Sir Deva Prasad in all essentials the same, I propose to make a few observations with reference to certain remarks that have fallen from the previous speakers. Now, I always listen to my Honourable friend Mr Sethna with great interest. I know I shall hear a well reasoned and clear cut speech, and if I express some disappointment to-day, it is because I feel that the amendment is one that even his eloquence could not adequately support. I must in the first place point out that it really is quite a matter of frequent occurrence that if you take away a certain portion of the majority it becomes a minority. I leave his point at that. Further, as to his remarks on the personnel of the Committee, I will only make one or two reflections. I have never yet heard that the fact that men have grown grey in the service of the Crown was any disqualification for assisting in deliberations connected with work on which they had spent the whole of their lives. That, however, is a small matter no doubt. What I do regret is that my Honourable friend should have thought fit to refer to the Maharajahdiraja Sir Bijay Chand Mahtab Bahadur of Burdwan as an official and to suggest that he is tainted with official views and so disqualified as a patriot. Let me tell my Honourable friend that the Maharajahdiraja is one of the largest zemindars in Bengal and has a stake in the country not even inferior to that of my Honourable friend. If Indians of high standing who serve the Crown in responsible positions are to be tarred with the official brush and regarded as disqualified from giving impartial judgments, India will not be so well served in the future as she had been in the past.

Turning to the amendment, I really wonder whether my Honourable friend has read the minority report with any care. He refers to the recommendations of the minority report. In effect there is only one recommendation, that is, an immediate Royal Commission. The sting of that report is contained in the tail. It is true that the minority were pleased not to be quite hostile to certain recommendations of the majority report perhaps even in one or two instances they were favourable; but their general attitude was that the constitution is not worth amending, they contended it wants ending. They recognised however that before this could be effected some kind of Royal Commission would be necessary.



Now, my Honourable friend who sits behind Mr Sethna (the Honourable Mr V Ramadas Pantulu) who also moves the same amendment, though, I think, he fights under a somewhat different banner, was pleased to observe that his plan of campaign was Swaraj within the Empire if possible, but if not, outside. I do not know whether Mr Sethna would assent to that proposition. At any rate I may tell this House at once that Swaraj outside the British Empire has no possible interest for me. My Honourable friend also observed that if he lived 150 years ago, he would have been far stronger and far more powerful than he is now. Where does my Honourable friend live? I believe he lives in the Kistna District of the Madras Presidency. I am quite sure of one thing, that 150 years ago he would not have been speaking in Simla in peace and safety. My Honourable friend says that whatever amendments may be made within the scope and purpose of the Preamble, he will not work this constitution. Does he really mean that, I wonder. Well, I hope he does not. At any rate I should have thought that the very amendment he has put down, unless it was meant as mere empty verbiage, indicates that he might possibly be prepared to do so under certain circumstances. What is it that this amendment really means? I find great difficulty in following it. I have heard three or four speeches in this House and three or four speeches in another place and I have not yet understood whether what is offered to Government is an ultimatum or an offer. One speaker refers to it as a thing to be asked for, another speaker speaks of it as a thing to be demanded. The extraordinary thing about the amendment is that the reasons given for it are entirely different and that different speakers in supporting it assign different meanings to its terms. Indeed, the actual meaning of the amendment is still to this moment somewhat doubtful to me. Let me examine it. It falls into three parts. In the first place, this Government are to take immediate steps to move His Majesty's Government to make a declaration in Parliament embodying certain changes, which are, frankly Dominion Self-government, that is to say, you are going to ask Parliament to pass with one leap to a declaration of this kind. We are to go to Parliament and say. Whatever may have happened in India, whatever the Secretary of State may have said, and whatever may have been said in the Preamble of the Government of India Act (and I will not again read that Preamble which I have read so often), the whole position is to be altered with a stroke of the pen, and the British Government are to make a declaration to Parliament of a kind which, I think everybody will agree, is a very remarkable advance on the present constitutional position. Now, Sir, this is clearly in contravention of the minority report. That report contemplates that before any structural changes could possibly take place, there must be something in the nature of a Statutory Commission. We have heard this on the authority of the men who signed the minority report—persons, I admit, of weight, for it has never been my custom to impugn the authority of those with whom I may have had the misfortune to disagree on certain points. At any rate the signatories of that report recognised that any violent step forward must be preceded by a commission, if not the statutory commission, at least an authoritative commission. As I said in another place, the first part of the amendment which we are discussing is therefore a virtual repeal of section 84A of the Government of India Act. That is the section under which there must be a statutory commission not later than ten years from the commencement of the

Act, that is to say, after some four years from now That is the first point I want to make against the amendment, namely, that it is in contravention of the recommendation of the minority report

It was suggested in another place that the second part of the amendment was intended or might be read as covering a statutory or Royal Commission No one in this House has apparently even dreamt of that Nor do I think, if we apply the ordinary rules of construction, such an interpretation is possible Moreover a Royal Commission will determine fundamental principles and not details, and must precede and not follow such a determination

Now, Sir, my Honourable friend Mr Crerar in his speech touched lightly on what I think at any rate, is a definite and interesting point in this amendment which has been supported for so many different reasons and in so many different places It is, I understand, intended to be a definite statement from all the persons who support it in this House and in another place that they do desire to proceed upon the basis of western institutions, and that they desire to set democracy established in India Those who put forward this amendment must be taken as admitting that they do not want to proceed on the lines of any Oriental form of constitution, and that they have abandoned the idea of an indigenous product in this sphere They have accepted the principle that India's future progress must lie along the well known paths of western representative institutions Now, in that connection I will draw attention to what the Secretary of State said He said, and this is what my Honourable friend was referring to when he spoke of the reply of India to the Secretary of State

"It has been the habit of the spokesmen of Swarajist thought to declare in anticipation that no constitution framed in the West can either be suitable for or acceptable to the peoples of India"

Then he goes on to say

"It has always seemed to me that a very simple answer might be given to such a contention"

He does not claim that Britain has any speciality in framing constitutions and he expressed himself as quite prepared to consider a constitution framed on a different basis from that on which the British constitution rests But I assume from this amendment that that has been definitely rejected by them who support the amendment

Well, Sir, we are asked to make this startling declaration and that in the face of the speeches that have been delivered by the Secretary of State and His Excellency the Viceroy I am not prepared to go into an examination of the theoretical position I do not believe that in this House such a course will command any support at all I believe this House to be a House pre-eminently of practical men who look at problems, which are submitted for their consideration, in a practical way, and that is the way in which I want the House to approach this great problem What is the position? I have no desire whatever to stir up ill-feeling or to refer more than is necessary to what has happened in the past The facts are clear When this constitution under which we now sit here was brought into operation, a large body of prominent Indian thought declined to have anything to do with the constitution at all They

said that it was a device of the devil. They said that they would have nothing whatever to do with it and they remained outside the Legislatures. I am glad to say that they are here to-day, and I do not care myself for what reasons they came in. They came in, I think, to curse, for my Honourable friend said that there ought to be destruction and not construction. I trust that they may remain here to bless and that they will pass from destruction to construction. Sir, constitutional advance can be secured by constitutional means in one way only and that is by the good-will of the British Parliament. I have no desire to reiterate that. It is known to you all but it is a fact that you must never lose sight of. You can secure advance by the good-will of the British Parliament and you can secure it subject to a condition that I will refer to later. Parliament has laid down that in four years' time from now there must be an examination by a Statutory Commission into the working of the present constitution. Now, Sir, I myself have never attached any great importance to the question of date. Undue importance has, I think, been attached to this question in some quarters. There is no doubt that the eagerness for a statutory commission must be attributed to the fact that those who claim it so ardently feel that with a statutory commission some advance will be gained. I do not think there is any doubt that this is the reason of the call for early examination by the Commission. Therefore, the really important matter is not the particular year when the Commission meets, but the evidence and the facts which can be put before the Commission which will lead that Commission to the conclusion that further development on constitutional lines is both feasible and desirable in India. That is the whole point. Now, the Secretary of State has told you—and I need hardly repeat it here—that the British Government are not slaves of dates. In other words, he distinctly indicates that, given certain conditions, the date of the Statutory Commission could be advanced. Sir, that might not be an unmixed benefit for India. You have been told—and that I think was the most conclusive answer that you could have got—by His Excellency the Viceroy that in his judgment to hold a Royal Commission immediately would be disastrous to the best interests of India.

Now, that is not advice that this House is likely to regard lightly. It is advice from the head of the British Government in India, a man who has been nearly five years in India. It is furthermore the advice of His Excellency Lord Reading, a statesman trained to know the signs of the political sky, and moreover a statesman who has recently returned from a visit to England which has brought him into contact with politicians of all schools of political thought. Therefore that is advice that this House will, I know, give very, very great weight to.

The amendment to my mind—to any practical man—must mean that before you can ask Parliament to make all or any of its presumed declarations you would have to present to Parliament the report of a statutory commission. No great constitutional change—I think I am correct in saying—has ever been made with regard to India by the British Parliament without some inquiry of that character. Therefore, as a condition precedent, you must have the appointment of a Royal Commission. That statutory commission cannot be

appointed at present, nor is it desirable to appoint a Royal Commission at present. I think the advice given by His Excellency Lord Reading establishes that beyond the shadow of a doubt

Then you ask, is there no means by which the date of this commission can be advanced, or is it that we have no hope of speeding up things and that you bang the door in our faces? The Secretary of State has given you the answer to this in his speech. With regard to the rise or acceleration of constitutional progress he says

“The door of acceleration is not open to menace, still less will it be stormed by violence. But there never has been a moment since the Constitution was adopted in which the Government of India, acting in harmony with the Government at Home, has not been vigilantly and attentively considering the spirit in which the present reforms have been received in India. It has indeed been an imperative and urgent duty for my predecessors and myself so to consider them. . . . Developments have been easily conceivable to me—are still not wholly inconceivable to me—in which the acceleration of the date of the Royal Commission might have been recommended even by very cautious statesmen.”

Then, Sir, I turn to the next portion of the amendment which proposes after a declaration to Parliament has been made, which I have shown the House is not possible to constitute, a convention, round table conference, or other suitable agency adequately representative of all Indian, European and Anglo-Indian interests to frame with due regard to the interests of minorities—and here let me pause and make a comment—the interests of minorities is not one of those fundamental principles to be laid down by Parliament. They are to be referred to this convention. This convention is to be constituted in consultation with the Legislature presumably, since the amendment is now in this House, both Chambers of the Legislature.

It is evident, therefore, that the framers of the amendment recognise that although the fundamental principles are to be recognised by Parliament merely on the verdict of the Indian Legislature, still when it comes to consider the details, then it is desirable to call in representation of a wider nature. The amendment recognises, in other words, that as at present constituted the Legislature cannot be regarded as fully representative of all the interests mentioned in that portion of the amendment.

Then the next thing is that the details are to be referred back to the Legislature, and there they are to be considered and solved. They are then to be submitted to the British Parliament to be embodied in a Statute.

And there, Sir, again I have felt very great difficulty in understanding the position taken up by different persons who have spoken on this amendment. I was told in another place that this clause meant that when the details had been considered by the Legislature, they were to be submitted to Parliament, and Parliament, without any further consideration, without altering a dot or comma or a semi-colon, was to enact them as an Act. On the other hand, I was told also on this very same point. ‘Oh no, that is not the case, obviously no one wishes to interfere with the supremacy of Parliament, and therefore Parliament would be able to amend the Statute if it wished.’ Well, Sir, I have heard nothing in this House on that point, I have not

heard my Honourable friend Mr Sethna say whether he would admit any liberty to Parliament in the matter, or whether Parliament would be required, as indeed they did in connection with certain Colonial constitutions, to enact without amendment. The point is one not lacking in importance.

THE HONOURABLE MR PHIROZE C SETHNA. Except any reasonable amendment.

THE HONOURABLE SIR ALEXANDER MUDDIMAN. I am glad to hear my Honourable friend would accept any reasonable amendment. If he got his fundamental principles accepted as he proposes, he might well agree to accept any reasonable amendment.

Well, Sir, I have now, I hope, dealt faithfully with the amendment. It only remains for me to say that I should be the last to desire to throw obstacles in the legitimate progress of the constitution of India. I have every desire to see India advancing on the lines which are dear to many of you. I have every desire to see that happen, but I have no desire to see that happen if it is to bring in its train consequences which are not favourable to the people of India as a whole. None whatever. There has been a great appeal by His Excellency the Viceroy for co-operation. Co-operation, as I said in another place, is of course a course of conduct not a phrase. It does not mean that I should stand here and say I am going to do something in the future, it does not mean that you should say you are going to do anything in the future, it means that reasonable men will be able to conclude from facts, from facts and actions, that Government have received that measure of co-operation which the Secretary of State says is essential before there can be any reconsideration of the date of the inquiry.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab Muhammadan). Sir, when we were given all these new reforms, they were given to us by His Majesty's Government and the British Parliament. Now when they were given to us, it was then decided as to the course of action which was to be taken. According to that course, progress has to be made. Some of us who were naturally impatient wanted that the further reforms should come earlier, and for this, as we all know, the Reforms Inquiry Committee sat. All the difference between the two Reports, the majority- and the minority reports, is that one wants further reforms immediately, and the other wants to improve the matters as they stand. Well, when we have to get these reforms from Parliament, we cannot very well take them by force. If they were to be taken by force, I would say to those who want to do it, "better try it and not worry in this matter here in the Council." But for those who do want to please the British Government and Parliament and then to ask for more reforms, the best thing is to take what we can get now gratefully and then ask for more. Now asking for more has got no limits and you can ask for the moon. The first thing is what the Swarajists or Extremists want. One of my friends said that their idea is to have it within the Empire if possible, and if not, without it. I am one of those who would like in the beginning at any rate, Swaraj without the Empire. And why? Because if we got Swaraj later on in the Empire that will be more stable. What will happen if we have Swaraj at once? The first thing will be that we will see that the power does not remain for an hour.



they are looking forward to the day, which is so much wanted by our Swaraj friends, when India should have Swaraj out of the Empire. They are simply longing for that day, because then there will be nobody left to ask for the heavy interest as perhaps their books will be burnt when the whole country will be in a state of chaos. This will be the result of the extremists reforms that are so much wanted by them.

Now, Sir, people have been quoting from history and I would also like to refer to it. History from the very beginning shows that whenever there has been an invasion from without, India has been unable to withstand it. I have heard in another place that we had a very old civilization at that time. I would like to know where was this civilization when year after year Mahmud Ghaznavi invaded India and not even once could his invasions be stopped. It will be seen that my co-religionists ruled in India for something like eight centuries and then naturally we had to stop some day and the British Government have followed in our footsteps.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY : Why naturally ?

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : Because the sun, after it rises to the Zenith, goes down. There is no nation and no country which can always remain stationary, it must go up and then come down. It is the same way with yourself. You were young and strong at one time and now you are getting old and weak—(Laughter)—and one day nature will get the better of you. So, Sir, Government when they are thinking of giving over the powers to some one should take into account the Muhammadans from whom they took the reins of government, and give them a trial to see if they can do better this time. If you were to look at the tropical countries and also the countries in a temperate zone, you will find that there are very few countries which are not under the influence of people belonging to the northern countries, because there the climate kills the weak and thus there is the survival of the fittest. Now, if there have been invasions from outside as I have shown historically, what is the use of asking for a change if the same old thing is to happen again ? Why don't you keep the present Government ? To-day we are quite all right and are getting these reforms. We should not try to have the reforms in a hurry only to lose them later on. Suppose the Government were to leave the country to-day, what would happen ? The Punjab would take as large a portion of the country as is near it, Nepal would take another part and the Ruling Chiefs would take all the territory around them, and so on, till perhaps our friends from the Frontier would come down upon us and sweep us, or perhaps another Eastern nation might attack our seaports. Our friends in down country do not mind this change because whenever there has been trouble in India it has been in the north. It is we in the Punjab who get killed and no trouble reaches the people down country.

But this time, I believe, that our friends saw something of the *Emden*

3 P M

Now these sea powers will attack Bombay and Madras, and thus the Punjab alone will not be attacked. Had they had any experience of invasion they would have thought twice about taking such hasty steps ?

Then, Sir, to get reforms is all right but it is very difficult to retain it unless one has got some power. And what is that power? The Army. We see now, Sir, that political parties have begun to meddle with that best of machines. The Army ought always to be kept aloof from politics. We now see a committee in which politicians are invited to help and the others are only poor ordinary soldiers who perhaps will be unable and unequal to argue with these politicians who may thus get the better of them. If that happens, they will Indianize it naturally with their own sons. A man was asked "Go and bring a beautiful child" and he brought his son—an awful ugly looking child. He was asked, "Why did you bring this ugly child?" He said, "See him with my eyes, and you will find him most beautiful." The same thing will happen when these people try to meddle with the Army. They will bring in their beautiful sons and we know what the result will be.

What I mean to say by all this is that it is all very well to open one's mouth and ask for everything. The difficulty is whether we can digest it. Our house is a house that when any ill-advised or hasty step is taken, it is our business, our duty to stop it, and though we have got some men who perhaps have got the same views as elsewhere, I think the majority of the House will see that we should take gratefully what we are given so that those who have to give further may be pleased to give more.

Then, Sir, I would again suggest to the House that the best course that we can adopt is to agree with the majority report and then wait till the Commission comes, and if we all unite, which we have not hitherto done, and can show that we are united as a nation, then perhaps the Commission may see that we can get further reforms. But the thing which does not exist is that nation about which we hear every day, whether the nation is Muhammadan or Hindu. We are also afraid that if our new reforms come, anything that comes up for the good of the Muhammadan community will be at once lost, because three-fourths will be against it on one side and one-fourth on the other. We, Muhammadans, are not very keen that such a time should come very soon.

THE HONOURABLE MR K C ROY (Bengal. Nominated Non-Official): Sir, I can assure the House that I accept without hesitation the underlying principle of Mr Sethna's amendment. I know of no Indian, not even the Malik Sahib, who will not accept that ideal, but the only thing that troubles me is the character of Mr Sethna's motion as it stands on the agenda. The Leader of the other House has told us this morning that we are a body of businessmen, and so we are. I look upon Mr Sethna's amendment not as a business proposition at all. What does it mean if we accept even a fraction of what Mr Sethna suggests? It means a new Parliament Act. Now what is the position of Indian affairs in London? Mr Sethna has given us only partial details. We have got at Westminster a strong Ministry representing the Tory democracy of Great Britain. There we have got some men who honestly believe that western institutions are unfit for an eastern country, we have got reactionaries among them, who think the Montagu-Chelmsford Act was a great mistake, and if they were given the opportunity they would not hesitate to go back upon the element of direct responsibility. I think both this House as well as the other House have not been fully alive to the great service which Lord Reading has rendered to us. He has at least committed the Baldwin Ministry to the acceptance of the Preamble of the Government of India Act, and that is a great



Then again, Sir, His Excellency has managed to commit the Baldwin Ministry to the statement that there is no bar to the appointment of a Royal Commission before 1929. If that is not an achievement, I ask the House to answer what it is. Then again, Sir, let us take the Liberals. They are all more or less Imperialists. I know many of them, I enjoyed the hospitality and courtesy of these people last year, and I know what they think of the Indian position. As for Labour, they are very difficult, when they are in office they are not in sympathy with us, when they are out of office they are all in sympathy with us. Many of us have read with astonishment, particularly my friend Mr. Ranga-chariar and myself who had personal contact with Lord Olivier, what he has recently said. I know what he told us when he was in office and I know what he has told the House of Lords now that he is not in office. Then again there is the Independent Labour Party. Politically to-day they do not count for very much, and I can only use the words of my own countryman, Mr. Saklatvala, who told me definitely that any party, be it Labour or Independent Labour, when thrown into the present Imperial political system, will think of the Indian question in the same strain as the two older Parties. This is the outlook for India to-day.

I will now come to an analysis of the amendment which my Honourable friend Mr. Sethna has moved. The Council, it is suggested, should ask for a new declaration in Parliament. What for? The declaration of 1917 was made, and the Act of 1919 was passed not in a spirit of panic, but in the hour of victory and were given with the utmost good-will and benevolent intentions. I think, Sir, the House will recognise that it is a risky experiment at the present moment to ask for a new declaration. Then, Sir, there is the question of revenue and expenditure. The revenues of the Government of India are vested in the Crown. I think, Sir, in any devolution of power to the Government in this country, the Crown will always remain as an indispensable factor of our political existence, provided we are agreed to remain in the British Empire. Under the circumstances, Sir, I see no case has been made out for the change. And as for expenditure, I have always been a warm advocate of the view that expenditure should be vested in the Governor General in Council. We made a serious attempt in this direction in 1919 when Lord Crewe's Committee examined this question. As we all know Lord Crewe's Committee recommended the abolition of the India Council, but owing to strong agitation in England in 1919, the Council still exists. Then again, Sir, a dyarchy has been proposed in respect of revenue and expenditure. The military and political expenditure is to be controlled by the Secretary of State, while other expenditure will be controlled by the Government of India. I do not know what is the proposal of my friend Mr. Sethna about revenue for the Army as well as for political purposes. Who will control this? Then again, Sir, the payment of all debts and liabilities lawfully contracted by the Secretary of State in Council on account of the Government of India is to be under the control of the Secretary of State. This matter has for long been before the country and has often been discussed. I know that the experts think that these transactions should be vested in our High Commissioner and not in the Secretary of State for India. This is the expert view, and I do not know how a businessman like my friend Mr. Sethna has induced himself to accept this proposition. Then comes the question of the Secretary of

State If the Secretary of State is to be shorn of all the powers that we want to deprive him of, there will be no need for the Secretary of State The Secretary of State for India will cease to exist, and India will be handed over to the Secretary for the Dominions

And next, Sir, comes the question of the Indian Army This is a matter, which although I am a Bengali, I have taken great interest in. I have been a warm advocate of Indianization of the Army I was a witness before the Military Requirements Committee and also before the Esher Committee, and I gave my views there in unmistakable terms Last summer there was a deputation of Indians who waited on the Prime Minister and I was one of them There also I raised the question of the Indianization of the Army, and the answer which the Prime Minister gave us must be treated as confidential because the conference was confidential, but before we Indianize the Army we should try and obtain an Indian Army Council on which there should be a strong civilian element I do not wish to abolish the Commander-in-Chief Nothing is further from my thoughts, but what is needed, if we want to Indianize the Army, as the first essential factor, is an Army Council with a strong civilian element on it If you leave it to the purely army man, the day of complete Indianization will perhaps never come

Sir, as I am a nominated Member I do not desire to express my views on the elective character of the legislative bodies, but I feel very strongly that opportunities will have to be found for Elder Statesmen, who cannot fight an election, in the Senatorial Chamber, by nomination I should like to tell the House only this, that it was Lord Morley who had to sit in the House of Lords, and it was only the other day that the Baldwin Ministry promoted Lord Oxford and Asquith to the House of Lords

Then, Sir, I come to the functions of the Central and the Provincial Governments I see that Sir Tej Bahadur Sapru and his colleagues have proposed dyarchy for the Government of India This is by no means a new proposition This was a proposition we placed before the Selborne Committee, and neither the Committee nor we could come to an understanding The Honourable the Leader of the other House who was connected with the reform movement from its very inception was present in London on behalf of the Government of India and he knows all about it I need hardly say any more on this point Sir, as regards dyarchy I should only like to say a word or two The best brains of India were present in London in 1919 There was the late Mr Tilak, there were Mr Rangaswami Iyengar, and Mr Ramachandra Rao, there was Mr Jinnah, there was the Right Honourable Srinivasa Sastri, there was the late lamented Sir Surendra Nath Banerjee Thus political opinions of all shades and creeds were represented there, but we could not really invent a better form of government than dyarchy, and in my opinion dyarchy as a transitional institution has not done badly

Now, Sir, I come to the main point I am quite prepared to support the Honourable Mr Sethna's amendment if he would tell me how he proposes to enforce it What is the sanction behind it—an inquiry which was very pertinently made by Mr Goswami in another place We can enforce it by three means and three means only The first is by armed intervention Can we do it? His Excellency the Commander-in-Chief can give a better answer to that



Excellency the Viceroy in a time of crisis they are told that the cotton excise duty cannot be taken off in the middle of the year. Take other industries, Sir. The Government of India find it difficult to prevent the dumping of foreign railway locomotive engines and wagons on India, and they are unable to grant protection to the cement industry which has been recommended by the Indian Tariff Board. Again, we have now been crying ourselves hoarse against the present day currency and exchange policy of the Government of India. All Indian economists and Indian business men are agreed that the recent exchange policy of Government has ruined Indian industry and is driving out our goods from various foreign markets and has thrown a large number of people out of employment. But the Government of India are helpless and cannot without the permission of the Secretary of State for India help us. Again all Indian economists are agreed that it is in the interests of India that the Gold Standard Reserve and the Paper Currency Reserve should be kept in India and not in England, but here again, Sir, the Government of India cannot, without the permission of the Secretary of State for India, move an inch. The personnel of the recently appointed Currency Commission is

THE HONOURABLE THE PRESIDENT Order, order. It seems to me that the Honourable Member is anticipating his budget speech.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS I am dealing with matters, Sir, which under the present constitution the Government of India are unable to meet well. I brought in the currency question, Sir, because the personnel of the Currency Commission did not meet with the approval of the people of India. Then, again, Sir, take the problem of the defence of India. Other countries under nationalist Governments are rapidly training their people in the modern methods of warfare. But the Government of India, in the matter of the Indianization of the Army, are moving, I am sorry to say, at a snail's pace. It is in the interests of the country as well as of the Army that all sections of the Indian population should get military training and should be recruited for the Indian Army, and that a very much larger number should be recruited for Sandhurst. Evidently, the Government of India, as at present constituted, cannot move in this matter more rapidly. India's sons, under the present system of government, are denied admission into the Air Force or into the Royal Artillery Force. Then, again, when we come to consider the position of Indians overseas, in the British Colonies or elsewhere, the Government of India, as at present constituted, are able to do very little for us. Even in Burma, which is supposed to be a province of India, attempts are being made to shut out Indians from that country. In all matters of industry, trade and commerce, in the Indianization of the Army, in the treatment meted out to Indians abroad, I mean in countries outside India, we find that the Government of India as at present constituted, cannot look after our interests as well as they should do. Our interests are practically neglected. This indifference will continue as long as the Government of India are in practice treated merely as a subordinate branch of the Government in England. If no restrictions are to be placed on the development of Indian industries, if India's trade is not to be hampered by imposing invidious restrictions in the matter of rates and freights on railways, if India's trade and industries are

not to be killed by the present exchange policy, if India is to be made fit to defend herself from foreign aggression, and if we want that Indians overseas should not be insulted and humiliated, then it is very necessary that the Government of India should be made responsible to the Indian Legislature and should be released from the shackles put upon them by the Secretary of State for India. The Council of the Secretary of State for India can be of no benefit to India. It should therefore be abolished, and the position and status of the Secretary of State for India should be made identical to that of the Secretary of State for the self-governing Dominions.

Then, Sir, in the provinces too, we all know that dyarchy has failed. It has weakened the Government. Under the present system the Finance Member is entirely in charge of the provincial funds. He and his department, practically speaking, are the paymasters of the transferred departments. We hear the complaint almost from every province that the Ministers are not able to get enough money for the development of the departments under their charge. We also find that it is very very difficult in actual practice to draw the line between the transferred subjects in charge of the Ministers and the reserved half.

Then again the presence of a nominated element in the Provincial Councils has weakened the position of the Legislatures, and has prevented them from keeping the Ministers under their control. No amount of tinkering with the existing system of dyarchy can remove the present defects and establish a system of responsible government in the provinces. We must therefore do away with dyarchy and make the provinces quite autonomous in the administration of the departments handed over to them.

Sir, four and a half years ago when the Montagu reforms came into force, the men who came to the Councils and the men who were appointed Ministers and Executive Councillors, honestly and sincerely tried to work the reforms, but at every step they found that the machinery devised failed to protect the interests of India, and it was soon discovered that under the dyarchical system, responsible Parliamentary government, as intended by the authors of the reforms, could not be established in the provinces. Dyarchy is dead and it is no use sticking to the deadhorse. I freely admit, Sir, that India owes much to England and I also admit, Sir, that she has established peace and order in the country and has put us on the road to progress in Western civilization. But, Sir, I would urge upon Government to fit India for larger responsibilities in the comity of nation. I would ask them not to have a superstitious regard for dates. I hope they will not postpone the revision of the constitution till 1929. I, therefore, request Government to accept the amendment moved by my Honourable friend Mr Sethna and substitute what he has moved in place of the Resolution moved by the Honourable Mr Crerar.

My Honourable friend Sir Malik Umar Hayat Khan said something about digestion. I might say, Sir, that the digestive powers of various persons differ. In case our gallant Malik has not been very well able to digest the present constitution, I am sorry for him. He has also mentioned that the Councils have proved a burden to the country. That itself shows that he has not digested the present constitution. He says, and I want to correct

him in this matter, that the British Government took possession of this country from Mussalmans and so Mussalmans should have a better share in the government I hold, Sir, that this is wrong The British Government took possession of the Punjab from Maharaja Ranjit Singh, who was a Sikh ruler, and as far as the rest of India is concerned, the facts are well known, and I need not dilate upon them Our gallant Malik has also made an unwarranted attack on the Skeen Committee I was sorry to hear his observations on this subject We hope a great deal from the Skeen Committee I think it is one of the most important Committees which have been constituted by Government Generally it is said that these Committees bring about no result But I think that this Committee will bring about good results and open the door to Indians to a much larger extent to get an entry into the Indian Army

One thing more, Sir, which I want to say Our friend, the Honourable Malik, has said that the Legislatures have done nothing to protect the agriculturists from the hands of the money-lender I think, Sir, he is quite wrong there In the Punjab, and India as a whole several Acts have been passed to protect the money-lender (Laughter)

<sup>a</sup> THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN, That is right That is the fact which has come out

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS I am sorry, Sir, I mean the agriculturists I can also say, Sir, that by these Acts money-lenders have developed even among the Zamindars who are following in the footsteps of non-agriculturist money-lenders and who are charging much heavier interest from their own brother agriculturists

One point more, Sir, and I have finished Our gallant Malik has also said that India is not a nation I entirely differ from him India is a nation in all its aspects I need not dilate much upon this point, because from Peshawar right down to Cape Comorin, India is under one rule, under one law and under one Government With these few words, Sir, I strongly support the amended Resolution put forward by the Honourable Mr Sethna

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General) Sir, if I were convinced that the two proposed amendments had anything to do with the matter before the Council and had any reference even of the remotest kind to the Resolution proposed by the Honourable Mr Crerar I should be prepared to give them my very serious consideration, The debate which has taken place on the amendments, on the other hand, convinces me that the Members who have supported the amendments and the Movers of the amendments have gone off the rails The immediate issue before the Council as embodied in the Resolution is that certain alterations which are permissible within the scope, structure and purpose of the Government of India Act and which the majority of the Reforms Inquiry Committee have recommended should be carried out That Resolution is met with a formidable arraignment of the policy of the Government in the past with proposals of a somewhat reactionary character The Muddiman Committee was appointed not for the purpose of overthrowing the Government of India Act, not for the purpose of recommending suggestions beyond the scope of that Act, but that Committee was appointed for the purpose of helping towards an easier

and smoother administration of that Act. This morning as well as elsewhere a great deal has been said about the majority and the minority reports. I for one attach no significance to numbers. I do not care which report is signed by a majority and which report is signed by a minority, nor will I enter into the arena of the verbal jugglery which has been indulged in here as well as in the other House regarding which is the real majority and which is the real minority report. I look to the substance of the recommendations. I look to what is practicable and what is attainable. I discard the ideal, also the imaginary and chimerical calculations. Sir, even when the Muddiman Committee was appointed, Sir Malcolm Hailey made absolutely clear the scope of that inquiry. He said

“ If our inquiry into the defects of the working of the Act shows the feasibility and the possibility of any advance within the Act, that is to say, by the rule making power provided by Parliament under the Statute, we are willing to make a recommendation to that effect. But if our inquiry shows that no advance is possible without amending the constitution then the question of advance must be left as an entirely open and separate issue on which the Government is in no way committed ”

Sir, that is the gist of what the committee was really intended to do. Attempt has been made to mix up that “ open and separate issue ” with the result of the recommendations embodied in the majority report. Now, Sir, it has already been pointed out that the real scope of the inquiry was expressly limited within the structure and purpose of the Act.

That fact itself was acknowledged by the minority report and I quote a passage from that report in this connection. The minority report says

“ So long as this Act continues to be on the Statute book, it is impossible to dispense altogether with the classification of subjects into reserved and transferred. It therefore follows from clause 2 of the terms of reference by which we are bound that the utmost limit of any positive suggestions open to us is the transfer of more subjects or the amendment of certain rules or even of the Act itself in matters of detail for the rectification of administrative imperfections ”

Sir, the minority committee knew the significance of the inquiry. They knew that the inquiry was limited and they proceeded upon that. In the concluding paragraph of their report the minority committee after discussing at great length some suggestions beyond the scope and purpose of the reference, after travelling beyond the actual scope of the inquiry stated as follows

“ To our mind the proper question to ask is not whether any alternative transitional system can be devised but whether the constitution should not be put on a permanent basis, with provisions for automatic progress in the future so as to secure stability in the Government and willing co-operation of the people. We can only express the hope that a serious attempt may be made at an early date to solve the question. That this attempt should be made—whether by the appointment of a Royal Commission with freer terms of reference (not so restricted as these terms of reference) and larger scope of inquiry than ours or by any other agency—is a question which we earnestly commend to the notice of the Government ”

It would clearly appear from the statements to which I have drawn the attention of the Council that though the minority report discussed in detail certain proposals beyond the scope and purpose of the Act they confined their recommendation to the earlier appointment of the Royal Commission to take all these matters into their consideration. Therefore, Sir, it is astonishing that both in the other House and in this House these two formidable amendments should be tabulated for the purpose of discussion, and the Council will be

asked to divide on that amendment I am also greatly astonished that two of the most distinguished signatories to the report of the minority were the strongest supporters of the amendment in the other House. It is very difficult to understand the position taken up. I have therefore shown that though the principles and demands embodied in the amendments may fairly form the subject matter of a discussion as a separate issue, they have nothing absolutely to do with the main proposition before us and that the amendments really do not arise out of the Resolution which the Honourable Mr. Cresser has proposed.

**THE HONOURABLE SAYID RAZA ALI** Is the Honourable Member in order in impugning the authority of the Chair? The Chair has allowed the amendment.

**THE HONOURABLE THE PRESIDENT** The Chair is capable of looking after its own interests.

**THE HONOURABLE SIR MANECKJI DADABHOY** Sir, what do the amendments ask us to do? I have pointed out that the amendments are in the first instance irrelevant. I also go further and say that these amendments could not be constitutionally moved in the face of the Preamble of the Act of 1919 and in the face of the existing constitution. The amendments now in question ask, in other words, for immediate full responsible government, if not Dominion Government. I do not know whether under a Dominion system of Government you would have any more real and important powers than what are embodied in this Resolution. Now, Sir, Honourable Members are aware that Parliament has laid down a distinct principle as regards the advance to be sanctioned. Parliament has not even delegated that authority to the Government of India. The Government of India are also not to have any voice in the matter of the decisions to be arrived at regarding the progressive advancement of the privileges under the Act of 1919. The House of Commons has kept that privilege jealously to itself. I shall not trouble to read that Preamble. Everybody is aware of it, everybody knows it, that the British nation as represented by the British Parliament is to be the sole judge of the progress made in this country and the stages by which responsible Government is to be allowed. If that principle has been laid down rightly or wrongly—I am not concerned at present with the morality of that Preamble—if that Preamble has been laid down rightly or wrongly, is it within the power of this Council, is it within the power of the Government of India, to come forward with a catalogue of these formidable demands and ask that by a stroke of the pen the present constitution should be set aside, and that a new constitution tantamount to full responsible Government should be substituted? Sir, even the authors of the Montagu-Chelmsford reforms did not contemplate such a swift change. I shall read one small paragraph from the Report of the authors of the reforms which will make my position absolutely clear.

“The final form of India's constitution”—it is paragraph 350—“must be evolved out of the conditions of India and must be materially affected by the need for securing Imperial responsibilities. The dominating factor in the intermediate processes must be the rate at which the provinces can move towards responsible government. At the same time the change obviously cannot be confined to the provinces. In proportion as they become more responsible, the control which the Government of India exercises over them must gradually diminish.”



Here is an explicit pronouncement which was embodied in the Preamble of the Statute which was subsequently passed in Parliament and in the face of these definite pronouncements, I submit that any demand like the one which is embodied in the amendments before the Council is in my opinion somewhat unwise and unachievable.

Sir, I have referred to the legal and constitutional aspect of the case I shall say a few words on the expediency of these amendments I yield to none in this Council, not even to Mr Ramadas Pantulu, in my love and affection for this country I yield to none in my patriotism I have at heart the interests of India I have a large stake in the prosperity of this country, and I therefore distinctly state that the policy now adopted of attempting to defeat this Resolution by submitting these amendments is a short-sighted and a doubtful policy Sir, I am profoundly grieved that the Assembly has spurned, and that even an attempt should be repeated in this Council to spurn, at the great opportunity given by the English people to India through their representative in the House of Lords I feel profoundly sorry for the country If this opportunity had been rightly grasped, if it had been sympathetically caught hold of, if it had been graciously acknowledged, it would have resulted in infinite good to this country and the beneficent advancement of the people of this country That appeal was reiterated in no unequivocal terms by Lord Reading He asked India, he asked the representatives in the Indian Legislature, to extend to him their hands of fellowship, to extend to the Government of India their co-operation, so that he may be in a position to do something substantial, something solid and material in the direction of the advancement of the country That offer has been discarded with contumely, that offer has been painfully thrown away The co-operation which he asked for has been responded to by arraigning the Government of India with a long, and formidable catalogue of charges against them, by reciting their sins in the past, as my friend on my right (the Honourable Rai Bahadur Lala Ram Saran Das) has just done That real opportunity which was given to the country has been thrown away by asking for the shadow and discarding the substance Does any sane man outside this Council, does any Honourable Member in this Council really think that the House of Commons is going to accept immediately these proposals? I have just returned from England and let me tell you what I have been able personally to gauge in England I have had long talks, long discussions, with many influential Members of the House of Commons and I tell you sincerely, if you accept my word, that the feeling in England is altogether changed The feeling is very very hostile to this country That hostility has been mainly brought about by the unsagacious action on the part of our legislators I was distinctly told by many Members of the House of Commons that India need not expect any sympathy from Parliament unless she sincerely and genuinely comes forward and endeavours to meet them half-way and extends to them her good-will I assure you, Sir, this has been the result of my personal interview with many eminent and influential Members of that august body If any of our legislators think that by force, by threat or by passing these amendments they are going to gain their object, they are seriously mistaken I speak with great sorrow to-day on this subject, because I feel that the great chance which was made available for the advancement of the people of this country has been spurned and spurned without rhyme

or reason, that it has been thrown away only for the purpose of following the ideals of some of the people whose imaginations outrun their judgments. I am sorry that such a state of things has happened and I trust that this House will not commit the same mistake. This House contains many statesmen of great experience and with a knowledge of the world and with a knowledge of parliamentary procedure. I appeal to them with all earnestness that the right way for the advancement of our dear country and for the promotion of the interests of our country, which are at the heart of every one of us here, is not by frantic and unexplained opposition but really by co-operation and by extending our good-will. It is from that standpoint I hope that this Council will consider the original Resolution on the subject. The original Resolution does not ask anything more than the removal of certain defects and certain imperfections in the administrative machinery which have been catalogued at the end of the majority report. Power should be given to the Government of India to carry out those recommendations as early and as far as possible. There is nothing wrong in that. It is not even inconsistent and incompatible with your demand as embodied in the two amendments. Let those demands be brought forward at the right and proper time. Let the Royal Commission come to this country as early as possible. And, when the Royal Commission meets in India, it is open to our statesmen and political leaders to press these demands on the attention of that Commission. We will not lose anything. We shall then be able to press these demands with greater weight and we may get their sympathy towards at least some of our demands. As I have, therefore, pointed out, do not mix up and confuse the issue regarding further demands with the matter before the House and I trust you will pass this Resolution—I cannot say unanimously—but at least with a large majority. Remember one thing. These amendments may have the effect of exciting attention elsewhere but they will never weigh seriously to-day with any prudent and right-minded man or with His Majesty's Government. Also, pray, remember that our action to-day is watched by the outside world and you will justify your statesmanship and the existence of the Council of State by the decision you adopt to-day.

THE HONOURABLE SIR WILLIAM CURRIE (Bengal Chamber of Commerce). Sir, may I as a member of a community which appreciates the natural political aspirations of India express very shortly how the position appears to us. As business men we want a stable government, reasonable taxation, no restrictive or racial legislation, and as little State interference as possible. The history of the past few years of the politics of the province from which I come, namely, Bengal, is a sad one. It is one of entire non-co-operation, and, looking back on these past five years in Calcutta, we can see little evidence which can justify the hope that, if larger political powers be now given, the interests of minority communities will be protected. There have been no actions on the part of the opposition which can inspire confidence in their sense of responsibility and which can lead the mercantile community to believe that that peace and quiet, wherein we wish to carry on our ordinary avocations, will be available. If we are given proofs in the next few years of an earnest desire to co-operate—and by proofs I mean deeds and not words—proofs that minority communities and business interests will be protected,

then I think I may say that support towards the goal of Indian political aspirations will not be withheld by the European commercial community, amongst whom the Honourable Mover has so many friends, and who, I am sure, like my self, value his friendship most highly

THE HONOURABLE MR R P KARANDIKAR (Bombay Non-Muhamadan) Sir, I readily confess in all humility to a sense of inferiority in the matter of listening to the opposition remarks with that commendable equilibrium which appertains naturally to the Honourable Sir Alexander Muddiman. He has been able to listen to an onslaught on his opinions and his views with a sort of forbearance which is marvellous. I am trying to copy him but do not think that I shall be able to attain my object. I am anxious here to scan the position in the very limited time, though not the extended time which some speakers had this afternoon. I should like to see where the difference lies. There have been reports by what is generally known as the Muddiman Committee, call it the majority report on the one side and the minority report on the other. I have ventured to think out the situation. What is the difference between these two opinions? The one relies thoroughly on the Preamble and the dictum that the stages for Indian political advancement should be set by Parliament, the other school of thought appertaining to the minority report considers that India should advance on the lines of self-determination, the stages being determined by India herself. Now, there is a third school, which thinks out the matter in quite a different way. People who have understood the situation from the deliberations in the Assembly last year think that perhaps the limitations that were imposed upon this Committee, as well as the personnel of the Committee, were responsible for the rejection of the considerations and deliberations and conclusions of this Committee altogether. There is a school of thought which holds the limitations severe, the personnel that formed the Committee as unjustifiable. All this pertains to the third school.

Now we are here considering a certain proposition. We have certain amendments before us, and when I consider the amendments I really consider them relatively to the Resolution before the House. It is impossible to consider the amendments altogether - horn of the important original proposition to which these amendments relate. In that view perhaps it is legitimate and quite justifiable for one to consider the whole matter together. I am not here to dilate on the various aspects of the Resolution, but I am struck with one point in it which perhaps has escaped those of us who have been considering the whole situation very anxiously, like my friend the Honourable Sir Maneckji Dadabhai, who in his peroration perhaps skipped over the principal point in the whole Resolution itself, which asks the Governor General in Council to accept the principle of the majority report. Now I must declare at once that if it was shorn of this statement, and if the Resolution were merely limited to the acceptance of the recommendations of the majority of the Committee, there would be less opposition than what the Resolution has called for in the Council. What offends most is the insistence upon the acceptance of the principle underlying the majority report. I have taken the principle to be that the Preamble is not to be shaken, that the stages have to be determined by some one else and not by India. That is the principle which India can no longer

allow to be maintained That is the difference, I make no secret of it There have been endeavours made here to point out that it is the business of India, in the first instance, obviously not without the help of our fellow citizens and our brothers in the West and the Mother of Parliaments, to decide the capability of India Therefore it is that I am going to accept one or two propositions that have been laid down by the Honourable Mr Crerar in his very lucid introductory remarks He has been appealing to the whole Council, the whole country, to satisfy Parliament Every one is willing, and considers it his duty, to satisfy Parliament In the next place, he says fully utilise the resources I quite see the point It is upon those principles that we are fighting our case Every school in India adheres to the proposition that under the circumstances it is Parliament that will decide the fate of India The difference is what kind of Parliament will decide the fate of India and who are going to instruct that Parliament ? Who are going to determine how to utilise fully the resources ? Therein lies the difference One school in England considers that it is the man on the spot that will decide Hence it is we independent men are asked to look to the man on the spot here, and are told that whatever is supported by the Executive Council here, or by members belonging to the Government, who sympathise with us will carry more weight than any agitation in India for India's advancement It is thus that we are looking out to see how we can enlighten the man on the spot, or rather the generous men on the spot Those here are trying to convince people who have it in their power to approach Parliament, to approach the Home Office, to approach the Secretary of State with a real representation of India's needs If the amendment is conceived and put forward in a very very long document it is in the hope that perhaps if anyone wants to find out for himself what is the method being suggested by the other side he will find it there If no method had been suggested the attack would have been on the ground that it was merely a nebulous statement without any concrete form, nothing suggested "and consequently we will accept the better defined official view" It is in that hope, Sir, thoroughly loyal, loyal to the interests both of Great Britain and of Greater India that I am putting forward this situation simply for the consideration of those who nervously think that this amendment is likely to frighten Parliament out of its wits I am quite willing to accept the confidences which have been extended to us unasked by my Honourable friend Sir Maneckji Dadabhoy on the result of his interviews with leading men in England who may perhaps at the moment be ruling the destinies of India But I have full faith in history, the history of Parliament as it was made and as it is being made now The Parliament of 1917 is not the Parliament of to-day I am quite willing to satisfy any Parliament if we are given the chance to-day. We ask for that chance by this Resolution For instance take the first point in the amendment, if we satisfy this House and this House recommends to the Governor General to put forward our views, he will say these are the views of Indians focussed, crystallised, in the form of a Resolution If we want some agency to speak to Parliament, here it is All we want is that Parliament should give us a chance

Then I come to the next point The Honourable Mr Crerar says, "Use the resources you already have" That is just what we ask for : give us the chance of using our own resources Do not say "Thus

far and no further" We appeal to you to give us the fullest chance and then to judge us Allow us at least to see whether we can use our resources to our own advantage, whether we can satisfy them or not with all our resources at our fullest disposal Now, I put it to His Excellency the Commander-in-Chief, do Indians have the fullest rights and privileges in the matter of military employment? Of course he is trying his level best, for which we are grateful to him and his department, but the chances are very few and rare We want to enlarge our opportunities Take every department possible and you will see the same thing We are told that the hand of fellowship should be extended in co-operation Everybody here says, "This is in fellowship, this is in co-operation" But where is co-operation? Liberty, where hast thou fled? Everyone here is trying to say "I extend my hand in co-operation" One gentleman says "Co-operation? No, no, nothing of the kind It is the mailed fist that will do the trick and nothing else!" But the nations which have relied on the mailed fist in the past have suffered We hold it is the open palm extended for co-operation, for India, that will give us everything Now our amendment may be faultily worded The method in which the Resolution is put in the amendment may not be all that can be desired I quite see the force of that We are all deficient in the art of phraseology to which the bureaucracy or diplomacy attaches so much importance Well, help us with your better knowledge We have done our best It may be possible with your co-operation to put this amendment in a better form, in a form more acceptable to everyone with the principal points given therein We want our resources to be placed fully at the disposal of Indians Then we will appeal to that Parliament which is the Mother of Parliaments and show it that given the opportunity India can succeed in spite of all appearances to the contrary In every country, in all civilisations, we find that some people though sunk at the bottom of the abyss still hope on, and I am one of those who clings to hope Not that the amendments themselves are quite in order or represent everything that is desired, but if it is to be accepted by the whole nation in spite of the eminent verdict that was passed elsewhere by the other House whose opinion I respect, I should think really that that is all the greater reason for us not to support the principle as is enunciated in the Preamble, which I refuse to accept, and I would advise every Indian and every European that feels with Indians not to accept the Preamble as enunciating the principle which ought to guide the destiny of India in the future

THE HONOURABLE SIR ARTHUR FROMM (Bombay Chamber of Commerce) Sir, when looking at the list of business for to-day, I wondered whether the Home Secretary had any sense of gratification at the lengthy amendments which his short Resolution had called for I have no quarrel with the amendments either for the reasons put forward by my Honourable friend Sir Maneckji Dadabhoy or for any other reason In fact, on the whole I think they indicate some sort of advance in this country, because two parties have come together and at least they have put forward some sort of constructive proposals Whether we agree with their constructive proposals is altogether another matter These two parties, after putting forward their constructive proposals in another place, have put their heads together and were very clever in asking one of the best speakers in this House among the non-official Members to propose the amendment here I feel sure that if these amendments were carried, it would

be due to the great speech made by my Honourable friend Mr Sethna, and I congratulate him on his speech, because he spoke in a calm and reasonable manner without going into absurd platitudes. The Honourable Mr Sethna was followed by a Member from Madras. He said we should all have been happier 150 years ago. I understood him to say that India was happier 150 years ago. Well, Sir, we have been referred to in another place as elder statesmen, but I do not think we can go back 150 years, so, perhaps, we cannot give a satisfactory reply to the Honourable Member. Personally I would rather live in India at the present day. Then I am sorry to say the Honourable Member uttered threats. I do not suppose these threats frightened the Honourable the Home Member or any of the other Members of Government, nor do I suppose they frightened my gallant friends from the Punjab or any other Member of this Council. I do regret that any speech uttered here should have taken the form of threats of some sort of reprisal if the subject which the speaker had at heart was not given heed to. Fortunately another Member from Madras got up and paid a tribute to the Government of the British in India over this long term of years. He paid a great tribute, and of course most of us think he was quite right. He then went on to say that dyarchy does not suit the aspirations of this country. Nobody thought it would. Dyarchy was only intended as an intermediary stage. It is not the final goal. No one ever said that it was the goal. It was an intermediary stage, and as an intermediary stage, I consider it was one—it might still be one—if worked well, of considerable beneficial education.

Now, Sir, we have heard a good deal of talk about these amendments which are before us. But let us get down to hard facts of the case. The Honourable the Home Member has repeated here to-day what he has said before, that the final judge of the progression to constitutional Government in this country is the British Parliament. Certain people in this country may not like this, but it is a fact and there is no getting away from it. I can only assure my Indian friends in this House that we, Europeans in India, are ready to support any well thought-out scheme towards progressive government step by step. We have repeatedly announced that fact, but we have always deprecated any undue hurry. We do not say it should be too slow, but we have advocated that precipitancy in this matter would probably set the clock back.

Now one word more and I have done. I appeal to Honourable Members of this House not to throw over the recommendations of the majority of the Muddiman Committee. I feel perhaps a little diffident in putting this before the House since I was one of the signatories to it. But I can only tell you that we sat for many weeks, we heard evidence from all over the country and the recommendations of the majority were only put down on paper after the greatest consideration and thought. And then again, the minority came with us nearly the whole way and it was only towards the end,—I am not revealing any secrets,—it was only towards the end that they broke off and wrote their minority report. I appeal to Honourable Members of the Council to accept the recommendations of the majority and to accept the main Resolution which is before us, that is, the Resolution put forward by the Honourable Mr Crerar. It seems to me that we are all in one boat, but perhaps bow is not quite keeping time with stroke and wants to set a faster pace. We are all in one boat.

and I appeal to Honourable Members of this House to pull together and then I feel sure that we shall attain the goal which we are all aiming at

THE HONOURABLE SIR DINSILAW WACHA (Bombay Nominated Non-Official) In a grave issue of this constitutional nature now under consideration by this House, it is quite natural that there should be difference of opinion. Opinions have been expressed by the majority and the minority of the Muddiman Committee. For my part, with the greatest respect to both, I shall put forward my own views on their recommendations. Both parties have put forward their views very clearly. Perhaps the one party is more constitutional, the other party is more advanced. That is what I consider to be the essence of the case, but, of course, their respective views must be received with all due deference as emanating from persons all good and true. Having made this preliminary observation I may remark that I am now the only survivor left of the old Congress which was founded in 1885, and which was established for the very purpose of instituting constitutional reforms in the administration of the country. Well, Sir, 40 years have passed by. All my best friends who distinguished themselves and who were instrumental in afterwards getting the reforms, first in 1892 and afterwards in 1909, all, alas, have gone—and the last of them and the most brilliant only passed away the other day, my old friend, Sir Surendra Nath Banerjee. Well, Sir, if I can give my experience, I will say this—that during the 40 years and more of my public life I have learned and unlearned many things, and the greatest lesson I have learned is this, to *hasten slowly*. It has made me more cautious, and being cautious I repeat, that in a grave matter of this kind namely, constitutional reforms, we ought to hasten slowly. Hastening slowly does not mean that we should be only stationery, rather we should be progressive, but progressive step by step. As the architect builds his house brick by brick, we must build our constitutional house brick by brick, and brick after brick is never put together without the necessary experience of the architect. One has to see that the bricks laid are dry and do not soon loosen endangering collapse. The bricks should be well baked, strong and sound to last many years like a marble monument. Constitution building should be of the character just described and my advice to all my friends here as well as outside this House is that we all should hasten slowly. It may be that Government are sometimes too slow, and it may be that we are sometimes too much in advance of sterling, enlightened and mature public opinion. Bearing in mind this fundamental maxim, it is always best to have a golden mean, and that golden mean is—“neither to go too fast nor too slow”. As Tennyson says, if going up the hill we find the horse is going slowly, examine the pace and try and make it go a little faster, but if the horse goes too fast down the hill and we find that we may go down very soon to the ground and meet with a catastrophe, then it is needful to apply in time the brake and whip so as to make it go slow. That is exactly the position in which we must act in this matter whilst going uphill. If we want to be sure to reach the top of the hill, the Pisgah of our aspirations, then the pace at which we have been going must be deemed the best. I personally consider it so, and I only give the benefit of my experience to my fellow-Councillors here and in the other House if they are wise and willing enough to follow up. I am speaking, I repeat, from my own experience and having been in the public life of this country for more than 40 years, I can say that

the safest and surest way for ourselves to reach the goal of our aspirations is not to go very fast, as we are now doing. It is the only way to win. The difference in view between me and my friends, the authors of the minority report, with reference to the Resolution which has been moved by Mr Crerar here is one of caution and time. I will refer to one important point here on this subject. I should like to read what the late Sir Courteney Ilbert has said. You know very well he was the real draftsman of the constitution now in operation and particularly of the Preamble. I suppose Honourable Members, at least the Indian Members, know very well that he was the Law Member of the Government of India years ago, somewhere about 1883, and that he was the author of the famous legislation known as the Ilbert Bill. It was a very good Bill but about which much ado for nothing in particular was made. Well, he was the draftsman of the constitution, which it ought to be tinkered with. He has written a small book which perhaps very many of you have seen and read, I cannot say it is really a compendium, but it is a most useful explanatory memorandum or commentary for popular use, and here I shall give you at least the substance of it in almost his words.

"The new constitution enlarges enormously the powers of the Indian Legislature. Under the Morley Minto constitution all that the Central Legislature could do (apart from the purely legislative functions) was to discuss the annual financial statement, to ask questions and to make recommendations to the Government."

He then proceeds to explain what are the outstanding features of new constitution.

"The new Act deals not only with the Central Legislature but with the composition of the Governor General's Executive Council."

And here is the most important part of it.

"Part III of that Act changes the relations of the Secretary to the Parliament who sits at Westminster, remodels the constitution and procedure of the Council of India and sets up a new office, the holder of which is charged with important functions and styled the High Commissioner of India."

These are the reforms, additional reforms, I say of a most extensive character. I request the Council to carefully consider the far-reaching effects of the many salient sections of this constitution. That is the same constitution before you now which the amendments contemplate trifling or tinkering with. Now I say that this constitution is only three years old. We have had no fair and reasonable experience of its working. Some of us who were too wise said "We will not have it. It is unacceptable." Others thought that it was useless to enter the Council and work it. Some there were who thought of entering the Council in order to wreck the constitution. Can it be said that those who entered and those who did not have obtained that experience which all practical men of business sitting in a deliberative assembly should possess? Have they really understood the value or appreciated the far-reaching and most beneficent effects of this very constitution so generously granted to us. If you do appreciate it, then I say please study well and closely the Preamble. And if the Preamble, which is so comprehensive, is well understood, then nothing could be better for us all than to unite and vote for Mr Crerar's Resolution, which is the most useful and practical, than oppose it by the amendments put before us.



The amendment of my Honourable friend Mr Phiroze Sethna, which he so lucidly explained in his vigorous speech and others are well known all over the country for the last six months, ever since the publication of the report of the Muddiman Committee. These are replicas and replicas and 2nd, 3rd and 4th editions of the original one broadcasted. Here of course in this House and in the other House you only hear the echoes of what has been said *ad libitum* outside. No doubt these amendments are good in themselves in a way, but what I contend is that this is not the time to legislate for them. They are too previous. The time will come, in all probability in 4 or 5 years more, when they could be safely introduced for a general approval. The time is bound to come and when it does come I feel sure that every one of us will be able to consider and approve of the very best of these amendments. I am quite conscious of that, but in the meantime if we are wise, if we are patient, and if we want to move slowly, if we have the true interests of our own selves and our country at heart, then I do say, it is far better to go slowly and adopt the Resolution which has been so ably and lucidly put forward by Mr Crerar and supplemented so well by my Honourable friend Sir Alexander Muddiman. I have nothing more to say save this that the present is a crucial time, a critical time, when we have to pause, consider and go cautiously. Some people may say "Go forward, don't be afraid, we have no faith in Government and we cannot depend upon Government. The Preamble may go to the dogs, Parliament may go to the dogs." That is not the attitude which public citizens experienced in public life should assume or approve, as responsible people like us act in a statesmanlike way. Parliament certainly is the ultimate arbiter. Parliament is the master of the Governor General. Remember that. People here have said that the man on the spot should have all the power. The man on the spot is doing it very well indeed. He has been most generously doing all in his power with sympathy and keen political sagacity. But after all, there is the Parliament and the Parliament alone which is the master of the Governor General, and as you know Parliament is composed of many very wise men, practical and cautious men, with traditions of several hundred years of constitutional Government. We have not got experience of even seventy months. I therefore say let us obey Parliament and have full faith in it as I have, that our cherished aspirations will be duly realised in good time. The Preamble is very good indeed. I tell you so once more Sir Courteney Albert himself has expressed himself so, and you will understand it better as you grow in experience and wisdom. Having said so much, I do hope in conclusion that this House will refrain from following the hasty example of the other House. We are supposed to be more elderly, although we are not all elderly here, but we possess greater acquired knowledge and experience of public affairs and we should at least correct those who want to be hasty, and do the right thing in the interests of the country. I believe, Sir, the interests of the country will be better served by having a modicum of Mr Crerar's Resolution than the amendments which may perhaps bring more catastrophe. Reasoning so, I appeal to the House not to prolong the discussion any further but accept Mr Crerar's Resolution. (Applause from Government Benches)

THE HONOURABLE MR. MANMOHANDAS RAMJI (Bombay Non-Muhammadan). Sir, I rise to support the amendment moved by my Honourable

friend, the Honourable Sir Deva Prasad Sarvadhikary The time has arrived when the demand of the Indian nation for allowing them a Government responsible to their elected representatives should be met by the grant of a larger measure of reforms This demand is not only from the intelligentsia of this country but also from the masses

Sir, the amendment that is now proposed by my Honourable friend in a slightly modified form, as this House is aware, has been accepted by a very large majority of the other House, and therefore, it does not require any discussion at any great length Convincing arguments in favour of this amendment have been advanced there The present Government as is well known is not now carried on solely in the interests of this country and to the satisfaction of its people The Legislature has no real power of the purse, and the Executive is not responsible to the elected representatives of the people The Government of India, as it is at present constituted, is faulty We therefore desire, Sir, to improve upon the present constitution If the Government were responsible to the people of this country, our commerce, industries, education and other nation-building activities would have been far more advanced than they are now The position and status of our countrymen abroad would have been far better At present, Sir, India is allowed to be exploited without any check whatever, and our brethren abroad are suffering under many disabilities and humiliations, even within the British Empire Sir, see what the British Government in England have done after the War They have taken measures to protect their commerce and industries from being ruined They have taken measures to find credit abroad They have taken measures to protect their industries from unfair competition and from dumping by the passing of the Safeguarding of Industries Act That Sir, is what a responsible Government is expected to do for a country What do we find here? One of the most prominent industries is passing through a critical condition The Government look on complacently, and suggest an inquiry in the matter, which might take a long time and possibly by that time serious damage to that industry might be caused Sir, it is well known that in a similar situation, the British Parliament in England found readily ten million pounds to avert the miners' strike and thus saved the country from the national loss of a much greater magnitude The Government of India are unwilling to provide one crore of rupees to the pioneer industry to relieve it from its present difficulty of unfair foreign competition

The expenditure of the present Government is top-heavy, the needs of the country are not adequately provided for, the provinces cry for money for education, sanitation and medical relief. These are neglected to such an extent that no other nation would tolerate it Under the circumstances the only course left open to the people of this country is through their chosen representatives to change the mode of Government The Government therefore will be well advised in accepting this amendment which is very moderate and reasonable Sir, in conclusion I do not wish to make any comment upon the very lengthy speech of my Honourable friend Sir Maneckji Dadabhoy His speech speaks for itself Therefore I do not think it is necessary to reply to his speech at all I congratulate my European commercial friends, Sir William Currie and Sir Arthur Froom, on their moderation and I join hands with them in the view that Indian commerce and European commerce

are standing in the same category, and therefore the commerce of this country as a whole, irrespective of whether it is British or Indian, is to be benefited by good government, and that is what we want by these amendments. Sir, at last I hold the same opinion as was expressed by my Honourable friend, Mr Karandikar. What we want the Government to do is to take the condition of the people and their wants into consideration, and do the needful as the occasion demands. With these few words I commend the amendment.

**THE HONOURABLE THE PRESIDENT** The original question before the House was that the following Resolution be adopted, namely

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government."

to which an amendment was moved :

"That for that Resolution the Resolution\* standing on the paper in the name of Mr Phiroze C Sethna, and moved by him by way of amendment, be substituted."

To that amendment again two amendments were moved by the Honourable Sir Deva Prasad Sarvadhikary.

"To substitute for the first paragraph of Mr Sethna's amendment, the first paragraph of that† which occurs in Sir Deva Prasad Sarvadhikary's name in the paper, and to substitute for the last paragraph of Mr Sethna's amendment the last two paragraphs‡ of his amendment."

The question I have to put to the Council is that the two amendments proposed by Sir Deva Prasad Sarvadhikary be made in the amendment proposed by the Honourable Mr Sethna.

**THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY** May I suggest that the two amendments may be put separately because they are matters of substance and some Members may be inclined to vote for one and not for the other.

**THE HONOURABLE THE PRESIDENT** I have no objection to putting them separately, though it seems to me they hang together. If one is rejected and the other accepted, Mr Sethna's amendment becomes more or less unreadable.

The question before the Council is.

"That for the first paragraph\* of Mr Sethna's amendment the first paragraph‡ of the amendment standing in the name of Sir Deva Prasad Sarvadhikary on the paper be substituted."

The motion was negatived.

**THE HONOURABLE THE PRESIDENT** The next question before the Council is.

"That for the last paragraph of Mr Sethna's amendment beginning with the words 'This Council further recommends' the last two paragraphs of the amendment standing in the name of the Honourable Sir Deva Prasad Sarvadhikary, beginning with the words 'This Council further recommends' be substituted."

The motion was negatived.

**THE HONOURABLE THE PRESIDENT** The question now before the Council is

"That the amendment\* in the form of a Resolution moved by the Honourable Mr Phiroze C Sethna be substituted for the original Resolution‡ moved by the Honourable Mr Crerar."

The motion was negatived by 29 votes against 10.

*Saturday, 12th September, 1925.*

RESOLUTION *RE* RECOMMENDATIONS OF THE MAJORITY REPORT  
OF THE REFORMS INQUIRY COMMITTEE—(contd.)

THE HONOURABLE THE PRESIDENT The House will now resume the discussion of the Government Resolution moved yesterday by the Honourable Mr. Crerar. The amendments standing in the names of the Honourable Mr. Phiroze C. Sethna, the Honourable Mr. Ramadas Pantulu and the Honourable Sir Deva Prasad Sarvadhikary were disposed of yesterday by the House. The next amendment on the paper stands in the name of the Honourable Mr. Khaparde. Apart from the fact that this amendment does not make any specific recommendation in its terms, I think it raises substantially the same question which the House disposed of yesterday, and that it falls with the amendments which were then disposed of. The next amendment is in the name of the Honourable Mr. K. C. Roy, and it would be convenient if that were taken up next.

THE HONOURABLE MR. K. C. ROY (Bengal Nominated Non-Official) May I suggest for your consideration, Sir, that my Honourable friend Sahibzada Aftab Ahmad Khan has almost the same amendment as the one I have and I should like him to move his amendment first, if you will permit him to do so.

THE HONOURABLE THE PRESIDENT The Honourable Sahibzada Aftab Ahmad Khan's amendment proposes to substitute a Resolution for the original Resolution. I have considered the point, and I think it would be more convenient to the Council to consider first the Honourable Member's addition to the Resolution which deals with the appointment of a Royal Commission at an earlier date than 1929.

THE HONOURABLE MR. K. C. ROY: I submit to your decision, Sir. I move.

"That the following be added the original Resolution:

'and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927.'

Sir, I have made this proposition simply because it is in consonance with the Government of India Act. His Majesty's Government and the Government of India, as you know, Sir, have pledged themselves to appoint a Royal Commission not later than 1929, and in the speeches which were made in the other place, although many Members have not distinctly stated their demand for a Royal Commission, we know that some Members like Pandit Madan Mohan Malaviya and others have claimed that a Royal Commission might

be appointed earlier and that this will be regarded as a gesture on the part of His Majesty's Government. The Honourable Sir Basil Blackett almost made a similar statement when he told the other House that if they agreed to co-operate genuinely for the life of the present Assembly and till the beginning of the next they would be materially contributing to the debate. And only yesterday, Sir, the Honourable Sir Alexander Muddiman was good enough to say that, if sincere and genuine co-operation and good-will were forthcoming, there was no reason to believe that a Commission would not be appointed earlier than 1929. I know, Sir, from my experience of the other Chamber as well as here, that a good deal of co-operation is forthcoming from all sides. I hear excellent reports of committee work done by Swarajist Members and as far as we know, the situation, so far as the Central Legislature is concerned, cannot be improved beyond what it is at present. Under the circumstances, I trust the Honourable Mr. Crcrar who represents the Government of India in this House will accept my motion as a gesture on behalf of His Majesty's Government. I move my amendment.

THE HONOURABLE SARDAR CHARANJIT SINGH (Punjab Nominated Non-Official) Sir, I regret I have to oppose this amendment. The Secretary of State has rightly said that wise men are not slaves to dates. I cannot understand how the Honourable Mover can consistently ask this House to tie itself down to the year 1927. I do not know if this is meant as a compliment to this House. Have the Reforms been given a fair chance? If not, is it not too early to say that the reforms have failed. In view of what has happened in some provinces and even in another place, surely, it cannot be said that the reforms have been given a fair chance and that they have failed. Democratic government does not mean a change to autocracy. It would in that case mean only a technical advance, an advance shorn of experience which is at the back of the present Government. That might launch India into a turmoil of communal strife and personal jealousies. Capacity for self-government must mainly be measured not merely by the ability of its leaders but rather by the capacity of the electorates to become a reliable control upon the Councils. As soon as this is done, there is no reason why a Commission should not be appointed. If that state of affairs is arrived at before the year 1927, an inquiry may usefully be instituted before that year. But, on the other hand, if we fail to achieve that object by 1927, what good would it be to tie this House down to that particular date? The material in that case would not be such as to get the verdict of the Commission in our favour. For this reason, Sir, I am strongly of opinion that, instead of binding ourselves to any particular date, we should concentrate all our energies to educate the electorates and make them fit for advance. Then and then alone would be the proper time for further inquiry and advance. I therefore oppose this amendment.

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member) Sir, before I deal with the actual amendment moved by my Honourable friend Mr. Roy let me take this opportunity of congratulating him on the wise and statesmanlike speech he delivered yesterday. I had not the opportunity of referring to that matter before this.

Now, Sir, the proposition in this amendment is of course a very harmless one at first sight. My Honourable friend proposes to do exactly what the Secretary of State and the British Government would not do. That is, he proposes to be a slave to a date—to the date 1927. I endeavoured when speaking in this House before to indicate that, at any rate in my own opinion, the date of the Royal Commission is of very little importance compared with what the Royal Commission is going to do when it is appointed. A premature Royal Commission obviously would not have results which would appeal to Indian opinion or to those who think that the best interests of India will be served by an inquiry at the right moment. My Honourable friend Mr. Yamin Khan has pointed out the incidence of the various times of the elections. That, Sir, is not in itself of very great importance. What is wanted is experience of the elected bodies. We may indeed hope that in the course of time the electorates will produce legislative bodies which will exercise their responsibilities wisely. But the test that the Royal Commission must apply will be, and obviously must be, largely directed to the work of those Legislatures. The electorate can only operate in the indirect way of securing good and suitable representation in the Legislatures.

Now, Sir, I must at this stage read to the House one or two passages from the Secretary of State's speech. The Secretary of State said

"Even assuming co operation, it was thought that a period of ten years would be required to afford the data for reliable conclusions and generalisations. But I do not hesitate to make clear my own view that it was not the intention of the Legislature to attempt to shackle succeeding Governments, if a spirit of cheerful and loyal co operation was generally exhibited on the one hand, or if upon the other, grave and glaring defects disclosed themselves."

And he went on to say

"There will be—there can be—no reconsideration until we see everywhere among the responsible leaders of Indian thought evidence of a sincere and genuine desire to co-operate with us in making the best of the existing Constitution."

Now, Sir, I feel in addressing a House composed as this is, with the record such as it has, that it is an ungrateful task to me to press the question of co-operation. Had co-operation been received in other quarters to the extent that it has been received in this House, I have no doubt we should be far further on the road to the desired goal. Still, important as this House is, it is not the only legislative body in India, and in two Legislatures at any rate, there is even at the present moment no attempt whatever to work the reforms which were granted by the Government of India Act. What is wanted, if I may say so, is not statement but action, and the test for the acceleration of constitutional progress must be the test of fact and act. We cannot, here and now, and I am sure my Honourable friend does not really wish me to do so, commit ourselves to any date, certainly not to the date which is named in his amendment. He will, I think, agree with me that what we have to do is to endeavour by our actions to bring the date of the Royal Commission nearer. That date will be the appropriate date when India will be in a position to present facts to which the Royal Commission will be able to give full consideration. I hope, after what I have said, my Honourable friend will see his way to withdraw his amendment.

THE HONOURABLE DR SIR DEVA PRASAD SARVADINIKARY (West Bengal Non-Muhammadan) Sir, it is difficult to see how the two parts of the proposition as they will stand if Mr Roy's amendment was accepted would hang together. He proposes, in the first instance, the adoption of the Honourable Mr Crerar's Resolution in its entirety, which is the acceptance of the principle underlying the majority report of the Reforms Inquiry Committee, and he proceeds to add

"and that he do consider and recommend the appointment of a Royal Commission or any other suitable agency not later than 1927"

Sir, as was explained by the Honourable Mr Crerar yesterday, and as Sir Alexander Muddiman also emphasised to-day and yesterday, the principle of the majority report is the full working of the machinery as it stands and as it may be improved by reason of the adoption of the recommendations of the majority of the Muddiman Committee's Report. The principle, as such, has never in the course of that long report been overtly laid down in the same way as the minority has clearly and unequivocally laid down the principle that the present measure within its limitations cannot work and should be changed early in the manner indicated. Sir, if the principle of the majority report as set forth above is to be accepted, Mr Roy's amendment cannot from our point of view find acceptance. After effect has been given to those recommendations in the way invited by the Resolution, Mr Roy's suggestion will have the chance of becoming operative.

Regarding insistence on the necessity of absolutely, and everywhere thoroughly, working the machinery which is now in existence as a *sine qua non* for further advance, reference must once more be made to the great divergence of opinion, and more than divergence of opinion, about even the possibility of working dyarchy by those who have themselves been working it for what it is worth, who have been giving their best in working it. Reference is also permissible to those who have been supporting the measure in spite of its admitted imperfection either in the Assembly or in this House in the earlier stages. The only question is—Can we now consistently with those opinions support the "principle" enunciated by the Muddiman majority report and yet in the same breath ask for the appointment of a Royal Commission within a certain specified short date? We have been told before and to-day—to day with more purpose—that the Secretary of State and the Government must not be committed to the fetish of dates. Where and how then does Mr Roy's amendment come in? Well, by the rule of elimination and by what has been often repeated, 1929 will probably not be the date of the Commission but some earlier date, if conditions are favourable. As we have just said the year of grace, 1927, suggested by Mr Roy, is not acceptable by Government as the likely date of the Commission. That leaves only 1928 and by the theory of elimination one may expect and hope the Royal Commission may come in 1928 when the result of the election to the Assembly and the election to the Council of State will be perceived and also the views of the new legislators will have been ascertained so far as the period between 1926 and 1928 will have allowed. The Government say on the authority of what the Secretary of State and the Viceroy have pronounced that the results of further working must be awaited, and therefore they cannot say anything as to precise dates. If that is the position, I do not see how the acceptance of this amendment will help the

situation particularly as it overtly commits us to the principle above indicated. And we are unable to accept and uphold those principles, having regard to the many and clear difficulties in the way. If I may for a short moment revert to the impossibility of working dyarchy, I would very rapidly place before the House what those who have been working it say. Sir K. V. Reddi of Madras has said that "dyarchy has absolutely failed." Sir A. P. Patro has said "Transfer all the subjects to popular control." Messrs. Mehta and Jehangir of Bombay say that "no palliatives will be effective." Coming to some of the Executive Councillors, Sir Chimanlal Setalvad says "the only thing is to give provincial autonomy." The Rajah of Mahmudabad, than whom there is no more stalwart supporter of Government says "that dyarchy must go." Messrs. Sadaullah and Rajeswar Bahi in the United Provinces say that "dyarchy should be brought to an end." Mr. Chintamani, who himself had to go, said that "dyarchy must go." Sir Sachidananda Sinha "can suggest no alternative to provincial autonomy." The Ministers of Bihar, Sir Fakruddin and Mr. G. Singh, say that "dyarchy is doomed and that it is not possible to work it successfully." But these gentlemen are still trying to work loyally and trying to run the "creaking coach" as it has been called. Mr. Joshi of the Central Provinces says that "all provincial subjects should be transferred." Mr. Chitnavis says "complete provincial autonomy is essential for progressive government." Mr. Kelkar, not the progressive in the Assembly, but the Minister of the Central Provinces, advocates "the transfer of all subjects." Sir Provash Chunder Mitter, a late Member of Bengal, says that "dyarchy was unsatisfactory and unworkable and that it cannot be successfully worked any more as a democratic institution." Sardar Sundar Singh, another stalwart loyalist of the Punjab recommended "the transfer of all important subjects to Ministers," and Sir Fazl-i-Husain, who is with us here, and Chaudhuri Lal Chand asked for "the transfer of all subjects." Messrs. P. C. Dutt and Mr. Syedullah recommend "nothing shorter than full responsible government to be carried on by the Governor and the Ministers." The Ministers in Burma ask for "the transfer of all subjects to popular control."

I have advisedly limited this analysis on the basis of the opinion of those who are giving their best to the working of this defective machinery, not men speaking with outside knowledge, not men with "fantastic ideals", but men who have been every day of their life for the last three, or four or five years working the machinery and have made a piteous appeal for change. That being so, I do not see how Mr. Roy can ask us not to accept the principle of the majority report of the Muddiman Committee set out by the Honourable Mr. Crerar and the Honourable Sir Alexander Muddiman. I can understand the Honourable Sahibzada Muhammad Aftab's amendment better and yet suggest the advisability of a Royal Commission in 1926. Therefore, however, much we should like to have a Royal Commission earlier than 1929, I do not think it is possible for us to accept the proposition as it would stand even when amended by Mr. Roy who was "wise," yesterday and ceased to be so to-day.

Yesterday, I do not know, Sir, how exactly my Honourable friend the Home Member got the idea that with regard to whatever we had been suggesting in the course of either of the amendments that we discussed, we wanted to rule out all inquiry, even the statutory commission or the Royal Commission or



any other agency that the Government might think fit to bring into existence for considering further reform. Simply the fundamental and the basic principles embodied in the amendments were laid before the House for acceptance on the basis of which further constitution framing would in the first instance be essayed by us. I do not think either of the amendments, certainly not mine, went any further than that. From that point of view we should welcome any suggestion for the acceleration of the Royal Commission but that cannot be at the expense of the adoption of what has been called the "principle of working yet this machinery which has been so universally condemned by those who have worked it. Therefore Sir, without being misunderstood and without for a moment suggesting that we do not want an early Royal Commission, I find it difficult to support Mr Roy's amendment as a part of the original proposition.

THE HONOURABLE MR K V RANGASWAMI AYYANGAR (Madras Non-Muhammadan) Sir, we have had a Commission now and the reports of that Commission are being discussed now. Now the amendment proposes another Commission, and that is a Royal Commission and that is before 1927. Sir, if this amendment only means that we pass a vote of censure on the present Commission or on the Government that ordered the issue of the terms of reference, then it is permissible, but if it means any other thing, if it means really a Royal Commission in 1927, then we should oppose that amendment. Sir, human ingenuity could not devise a common way of going to the opposite poles at the same time. We know what we want, and what we want to retain is the wealth of India. We want a check on the economic drain of India and it is for that that a Commission is wanted by the Honourable Mr Roy. If that is so, I think the Government are perfectly aware of our demands. The Secretary of State is fully aware of what India wants, what the masses want, what the educated classes want, what the Congress wants and what the Council wants. And I do not think a Royal Commission can any more enlighten the points that are needed for the country at present. Sir, I reserve my remarks on the merits of the Resolution, but I oppose this amendment.

THE HONOURABLE SAYID RAZA ALI Sir to the Resolution moved yesterday by the Honourable Mr Cramer in a very lucid and cogently reasoned speech replete with literary skill, I beg to move the following amendment:

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted, the word 'object' be substituted for the word 'consideration', and at the end of the Resolution on the following words be added namely:

"and that he do take into careful consideration the recommendations contained in the minority report."

Sir the points of difference between the majority and minority reports resolve themselves briefly speaking, into two main heads. While the majority content themselves with making recommendations which would go to rectify certain administrative imperfections felt in the working of the Act and the Rules made thereunder, the minority proceed to recommend that by virtue of the experience gathered during the last 4 years, it is high time that steps should be taken to introduce in the first place provincial autonomy and secondly such alterations in the constitution of the Central Government as would introduce

an element of responsibility therein. The reports made by both sections of the Committee are documents on which, if it may not be considered impertinent on my part to say so, I would like to congratulate both sections of the Committee. Both have reasoned out their points clearly, both have brought out the difficulties that have been experienced in the working of the Act and the Rules, and both have adduced a number of cogent and reasonable arguments in support of the recommendations they have made. The majority have admitted—and it cannot be easily denied by anybody—that Indian opinion has forcibly pronounced itself in favour of the present system being abolished and a unitary system being set up in its place.

I do not think it is necessary for me, after the many speeches that have been made, to quote the long catalogue of honoured and respected names, in Indian public life to-day, of persons who have had very considerable experience as Executive Councillors of the Provinces or Provincial Ministers and who have unhesitatingly, definitely and strongly pointed out that dyarchy as a system has failed and it is time that a unitary system be adopted. Only a short while ago my friend the Honourable Sir Deva Prasad Sarvadhikary mentioned some of the names of *ex* Executive Councillors, *ex* Ministers, as well as the present Ministers who have taken that view. But, Sir, in view of the elevation of my Honourable friend Sir Fazl-i-Husain to the inner counsels of the Government of India, special significance I dare say, attaches to the opinion with which he supported this view. That opinion will be found at page 198 of the Report of the Committee. The minority have thus referred to the opinion of our Honourable colleague

“The Honourable Messrs Fazl-i-Husain and Choudhuri Lal Chand (the latter had lately to resign office) in a Joint Note, dated the 1st May 1924, recommend the transfer of all subjects in the provinces except the nomination of members, because dyarchy prevents, in their opinion”—

and that is a quotation—

“(a) the creation of a united Government, (b) the development of the party form of Government, and (c) the developing of a sense of responsibility in the Legislature”

The minority then go on to say

“They also suggest that a certain amount of responsibility should be introduced in the Central Government.”

I do not think it is worth while to tire out this Council with the opinions of other distinguished Indians who have expressed stronger views. The majority, while admitting the difficulties and the perplexities attendant on the working of a dyarchical system, point out that no doubt the difficulties are there, yet it was the intention of the framers of the reforms scheme that this system should work for a certain number of years and as such, apart from the removal of administrative imperfections, it is not wise to go at too rapid a pace. They have proceeded to point out a number of difficulties, the importance of which cannot be minimised by any reasonable person. I do not think, Sir, it is necessary for me to point out all the difficulties which the majority have pointed out, but I think I will be doing scant courtesy to the report of the majority if I refrain from saying a few words on two or three points that have been raised in their report.

In the first place, they point to the lack of education of the electorate. Now, Sir, that is a point which has also been noted by the minority. Unfortunately I cannot say that the attitude of a section of our countrymen has been such as to furnish an answer to this objection. Very little was done unfortunately, owing to the circumstances which are too well known to Honourable Members, to educate the electorate at the first general election in the year 1920. We fared better—and on that I congratulate the country—in the next general election held in the year 1923. The education of the electorate has not proceeded at that pace which the framers of the Act had a right to expect. But a very considerable change has occurred in our political atmosphere, and I do not think it is unreasonable to hope that at the next general election, in view of the encouraging experience of 1923, political leaders will set themselves in right earnest to educate the electorate in the proper sense of the term.

Another difficulty that has been pointed out by the majority relates to the big size of our provinces and their want of homogeneity. That, no doubt, is a valid objection as far as it goes. But, Sir, the objection does not go far enough. Assuming that the provinces are big, surely it ought not to be beyond the resourceful grasp of true statesmanship to tackle that problem. In fact, the question has already been discussed publicly whether we cannot redistribute our provinces on a linguistic basis. I do not say that the time has come for us to embark on that campaign. I simply suggest this as one of the solutions.

Now, reference has been made by the majority to communal differences. The majority, I am glad to notice, have not made much of that difficulty. And yet I am free to admit that that difficulty is there. That, again, is a matter which will, I hope, in the fulness of time be settled by the leaders of the communities as well as the masses realising the absolute necessity of their living in peace side by side. And, while I am on this question, I think it is my duty to point out that the criticism that is raised at times in a certain section of the Press that these communal differences are the outcome of the policy of the Government or of the attitude that is taken by Government in handling them, is without any foundation whatsoever. As one who has something to do with the law courts and who occasionally appears in criminal cases, I can say, basing my remarks on my own experience, that no case has hitherto come to my knowledge in which the responsibility for these disputes and conflicts between the two major communities could be laid at the door of the Government.

Another difficulty, which is allied to the one I am discussing, that has been discussed both by the majority and the minority, concerns itself with the rights of the minorities. On this question I do not think I need say much, since both the majority and the minority have made it quite clear in their reports that in any scheme of reforms that may be considered hereafter it will be the duty of the Government to give adequate and effective protection to the minorities.

And, I think, so far as this particular difficulty is concerned, I must leave it at that.

Another difficulty, and this is the last which I propose to discuss, that has been very lightly touched upon by the majority, is the question of the permanent services. Now I must acknowledge that after the inauguration of the

reforms scheme, the permanent services, especially the Indian Civil Service, and other Imperial Services, were dissatisfied owing to two reasons. In the first place they were dissatisfied with the allowances, pay and pension that they were receiving at that time. Secondly, the inauguration of the reforms scheme produced a sense of insecurity in their minds as to their future prospects. Now both these difficulties fortunately have been solved. The Lee Commission was appointed, it came, made a report, and the recommendations contained in the report relating to the Imperial Services have been given effect to. As regards the question of allowances, pay and pension I think all their grievances have been remedied.

On the second question, there is no doubt left now that the reforms cannot affect their prospects, cannot operate prejudicially to their prospects. That difficulty which was one of the biggest has also been removed. Then what else now remains that stands in the way of the recommendations of the minority report being given effect to?

Sir, the Honourable the Home Member this morning said a few words with regard to the attitude taken up by this Council on public affairs. I am led to make a few observations on this point because of the amendment that has been adopted in the other House in place of the Government's Resolution. Sir, the other House consists of a large number of men who chose to non-co-operate with the Government in the year 1920. I do not propose to go into the rights and wrongs of that policy. Suffice it to say that it is open to Government to say now when they have chosen to return to the Councils that though they have come now they have come as defeated opponents, and it is open to Government to view the amendment in the light in which the proposals of defeated opponents are usually viewed. Speaking for myself, the amendment that has been adopted by the other House is no more than a tentative proposal that is to form the basis of discussion between the Government and the political leaders of the country. Whatever might have been said in the other House this is the view that I take of the amendment. There is at present no basis to go upon. Government take one view, and the people another. What is it that can form the basis of negotiations between the Government and the people? The amendment contains

this Council has doubted the wisdom of the attitude of Government on some of these measures, it has deemed it their duty, in the interests of ordered progress and stability of government, to lend their support to the Executive. And now in this Council, the record of whose achievements I have just described, a very inoffensive amendment is moved by one of its humble Members, who has been associated with this Council ever since its constitution, and what is the Government reply? In view of the services that this Council has always rendered to the Government, what is the reply that the Government Benches propose to make to this amendment? The amendment has not been drafted or proposed with a light heart, in fact from the very wording of the amendment it would appear that every conceivable effort has been made to take the Government's difficulties into consideration. This amendment does not commit Government to any definite line of action. We are entitled to ask that Government will give effect at an early date to the recommendations of the majority report, and to take into careful consideration the recommendations made by the minority. Let me make it quite clear that I mean what I say by the words "careful consideration", namely, that Government should not go to sleep over it and after some time come and tell us, "we have considered your proposal carefully and are of opinion that no action can be taken." I am sure that that is not the attitude that will be taken by Government. I have too much confidence in the good faith of Government to be suspicious of their attitude if they adopt my amendment.

Sir, I should like to make it quite clear that the amendment that I have proposed does not necessarily commit the Government to the acceptance of all the recommendations of the minority. The question of reforms is such a big question that it is very difficult, in the course of the limited time at my disposal, to make any detailed suggestions.

THE HONOURABLE THE PRESIDENT. I am glad that the Honourable Member has at last realised the limited time at his disposal. He has already far exceeded his time limit.

THE HONOURABLE SAIYID RAZA ALI. I will try to bring my remarks to a close in a few minutes.

Now the action that is to be taken by Government, Sir, will have to be action on a vast scale. In fact there are many courses that are open to Government in order to give effect to the wishes of the people. One of these is the appointment of a Royal Commission, another course that has already been adopted, on which I congratulated the Government, is the appointment of Sir Frederick Whyte to investigate the question of the relations between the Provincial and Central Governments as obtaining in other countries, with special reference to Indian conditions. Sir, my own impression is this, that the question is so big that, if Government want to take up that question in right earnest and come to a definite conclusion, they will have to appoint, not one man, not one Committee, but many men and many committees before the Statutory Commission can come out to India with any usefulness to the cause of constitutional advance. Sir, my amendment simply requires that the Government will take into consideration the recommendations of the minority report, it may be by the appointment of a committee of the Central Legislature, it may be by the appointment of a mixed committee of both Houses and of the Provincial

Legislatures or by adopting other means. The vitally important point is this, that the two main questions which I enunciated in the beginning, namely, provincial autonomy and responsibility in the Central Government, should be taken into consideration seriously and in right earnest. Sir, I appeal to the Government Benches to respond to this call that has been made upon them in this Council. I move the amendment.

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, in explaining the attitude of Government towards the amendment moved by my Honourable and learned friend, I should like, in the first instance, to acknowledge very warmly the courtesy of the observations which he passed on the arguments which I laid before the House in moving the original Resolution. I should like to acknowledge, at the same time, the extreme moderation and impartiality, and indeed penetration and sagacity, which have distinguished my Honourable friend's review not only of all the matters contained in the reports of the Reforms Inquiry Committee, but of the general political situation in India to-day. I desire to make all those acknowledgments because it is with very genuine regret that I cannot intimate on behalf of Government an acceptance of the Honourable Member's amendment.

Now, Sir, let me invite, in the first instance, the somewhat close attention of the House to the precise implications of the amendment. The Government of India are invited to give early effect to the detailed recommendations contained in the majority report and to give consideration to the recommendations contained in the minority report. On the first part of that amendment the situation has been clearly explained by His Excellency the Viceroy in his address to the Legislature. He said

"My Government are prepared to accept in substance the view of the majority that the constitution should be maintained and amended, where necessary, in order to remove defects in its working on the lines recommended by them. My Government cannot at present commit itself to all individual recommendations, or to the form or method by which they should be carried into effect, inasmuch as there has not been sufficient time for full consideration of them with the authorities concerned, or even by me with my Council. An opportunity will be afforded to the Legislature for debating this policy and every consideration will be given to the views presented to us before final conclusions are reached."

That, Sir, is the position with regard to the first part of the Honourable Member's amendment. With regard to the second part, I must once more invite the attention of the House to the fact that the main recommendation of the minority report was that the Act as it stands is radically incapable of working, and that the only remedy is an early or immediate inquiry by a Royal Commission or some similar body. Now that issue has been fully debated by the House and it has been rejected. In view of the considered views laid by Government before the House, and in view of the degree to which they have been endorsed and ratified by the House, could we consistently undertake to take into consideration that part of the proposition? And that, Sir, is the main proposition. With regard to the other recommendations of the minority committee, and the recommendations of the majority, subject to the important exception which I have just made, I have before me a very careful analysis of those parallel series of recommendations, and after a very careful perusal of this and of the Reports themselves, I have been very much surprised by the extraordinary coincidence between the views of the majority and the

minority on the points which really arise on this aspect of the question. In a few cases the minority did not perhaps go quite so far as the majority, in a few cases more the minority went further than the majority. Let me give an instance which is typical. I recently brought before this House a proposal to endorse the recommendations of the committee on the subject of women's franchise. Now I explained very fully the situation as it would be if the majority recommendation was accepted. The minority recommendation was that immediate steps should be taken to complete the grant of the franchise to women and to complete the removal of all restrictions upon their standing as candidates for the Legislatures. Now, the only difference between the two propositions is, that the majority deliberately intended to reserve the right of the local Legislatures and of the provinces to be heard in a matter of so much constitutional importance. The House then affirmed a general proposition which goes some way with the expedient proposed by the minority committee. So also the point of difference in a very large number of the recommendations that have been made by the majority and the minority is largely one of method and expedient.

Now, Sir, the Honourable Member referred in terms, which I am fully prepared to accept, to the attitude generally taken by the Council of State on propositions laid before them by Government and he suggested that there ought to be some reciprocity in the matter. I will admit that the Honourable Member's proposition has at least one merit. He referred to the amendment which was passed in another place and which was very fully considered and rejected in this House. Well, Sir, one peculiarity of that amendment, in my opinion, is this, that it corresponds very much to a remark once passed upon another very important document, which says

"This is a Book where each his dogma seeks  
And thus the Book where each his dogma finds"

It was a protean and chameleonic proposition. It gave the Honourable Mr Natesan a Pisgah sight of Palestine. It induced the Honourable Mr Phiroze Sethna to hope for an immediate and almost cinematographic millennium. It filled my Honourable and learned friend opposite with the fear of certain dire consequences which led him into the slough of despond and the valley of the shadow of death. Well, Sir, it is of course difficult to address oneself to a proposition which, if it was correctly understood by any one of the Honourable Members opposite who supported, was certainly not correctly understood by the others and was very imperfectly comprehended by any one of us.

My Honourable and learned friend's proposition by contrast is a perfectly comprehensible one, but for the reasons which I have put forward we cannot accept it. It is not that we do not desire to show the fullest measure of reciprocity to the reason and the goodwill displayed not only by the Honourable and learned Member himself but by the Council as a whole. It is because we cannot commit ourselves to the full implications of his amendment. It is true he promised that if we accepted his amendment he would not be too strict in his construction of the action which we took upon it. But after all, though I acknowledge very deeply the eminent reasonableness of the Honourable

Member's own attitude, I would remind the House that what we should be committed to would be the actual letter of this amendment and the actual implications which it conveys

I shall only say one word more. The Honourable and learned Member in speaking generally of the question of co-operation and reciprocity, asked the Government Benches to say whether, in view of the acquisition to the Legislature of a Party which hitherto had stood out of it, we proposed to regard that Party as defeated opponents. My reply to that, Sir, is "Most certainly not!" Government only rejoice in the thought that wiser counsels have prevailed in that Party and they will rejoice more if those wiser counsels prevail further yet.

I referred just now to the visions which were excited by the alternatives presented to the House. Those visions were iridescent to the eyes of some of those who supported the amendments and gloomy in the view of others. But what is embodied in the Resolution which I have had the honour to move is not a vision, it is not a dream, or at least if it is a dream it is that kind which an old poet calls a vision of the truth which is destined to be fulfilled!

THE HONOURABLE MR. G. S. KHAPARDE (Berar Nominated Non-Official). I am very glad, Sir, that certain circumstances have combined to keep me back because I appear to have the last word of it now which is very pleasant to me. The amendment moved by my Honourable friend Saiyid Raza Ali is nearly the same as mine but only put into different and perhaps better words. So I am able to say what I meant to say, though in a shorter time but I will do that.

One general observation I shall make is that it appears to me that we are like the old knights who had a shield between them. One side of the shield was painted red and on the other side it was painted white. The knights on one side of the shield said it was white while the knights on the other side said it was red, and on that they went to fight over it. It looks to me very much like that in the present case. It has been said and it is admitted, that the difference between the amendment which was carried in the other House and which was revived here by my Honourable friend Mr. Phiroze Sethna, who is unfortunately not here, and the report of the majority is merely a little difference of method and a difference of speed, I suppose. They want to have it done very soon and Government advise or the majority advises them to do it slowly. Well the difference of course is there but it is not so great. They admit also that it is right, but what we tell them is to go slowly which means of course that we approve of what they are doing but we think they should do it a little slowly and not go ahead as they try to do. Therefore I approach this subject in the same spirit as the passage from His Excellency's speech that was read out to us and I wish to take advantage of the permission given then to debate the matter. His Excellency expressed the view of his Government and that is embodied in the Resolution but with the permission given to us to talk about it and to suggest anything we like to suggest. That attempt I humbly endeavoured to make and my Honourable friend has made. It is the same in both cases, namely, that the proposals made in the original proposition as put here should be carried out, given effect to, and the proposals made in the minority report should be taken into consideration, and



as they lead the same way we also say they may be given effect to I can see nothing very great in this and nothing which Government need oppose in this amendment It is a proposal in the same direction Then why this opposition? That is the declared policy of 1917, that the people of this land should be more and more associated in all departments of Government It is also part of that declared policy that we have got to come together and consider as far as possible how to do it best And I believe the principle of this Reforms Committee to have been to find out how to make the reforms more acceptable and how to make them more cheerfully accepted and worked so as to secure the approbation of the people The second paragraph of the reference it is true restricts the remedies to be suggested, those remedies must be within the structure of this law as it obtains. Well, I quite accept all those limitations, and the spirit of those limitations, The Resolution which I support says "Will you kindly carry out the recommendations of the Reforms Committee, the recommendations of the majority, that is, and also take what the minority say into consideration as conveniently and as soon as you can" Surely there is no opposition between the two; the recommendations of the minority and the majority are not mutually exclusive For that purpose I wish to give a short analysis I shall not go into details because my time will not permit that At page 187 of the report of this Committee I have counted that there are 34 proposals put forward by the minority Out of this I find that 15 are the same as those made by the majority. Therefore these 15 measures which are contained in that report, 10, 11, 14, 17, 19, 21, 22, 23, 24, 25, 30, 31 and 32 made by the minority and by the majority, are practically identical And being practically identical it is natural that we should say that the majority and minority have really unanimously passed at least these fifteen proposals, and that there is no difference of opinion worth mentioning about them In that case, I suppose we are right in asking the Council to recommend to the Viceroy that at least these fifteen proposals may be carried out immediately, because the Committee is unanimous on these points

As regards the rest there is a difference of opinion, but not so great as is believed There is a little bit of difference here and there as to the pace at which the reforms are to proceed or the way in which they are to be popularised, and those may be left over for consideration later on and could be taken into consideration as early as convenient That being so, there is nothing revolutionary or extraordinary or very difficult that we are asking here My Honourable friend, as Honourable Members will remember, made a distinction between taking into consideration and giving effect, when he spoke of giving effect to the majority recommendations I do not think that that distinction exists They are only two modes of expressing the same thing When we ask the Government to do a certain thing, they do not say "We will do it", they say "We will take it into consideration" We say "Kindly give effect to it"—it is really one and the same thing. Therefore, I support this amendment very heartily, and I want to draw particular attention to these paragraphs which I mentioned, which are really speaking the unanimous recommendations of the Reforms Committee

There are two matters about which I should have liked to speak more, but I believe I can finish them in one minute One is this this question of

franchise has to be considered, and when it is considered I agree with my Honourable friend, Sir Umar Hayat Khan, in thinking that the landowners' interests, both in the Central and in the Provincial Legislatures, are not represented in our Legislatures as they should have been. That matter may be taken into consideration. I attach importance to the representation of landholders because in all countries and in all places they form the permanent element, and that permanent element has certain views and those views are always worth considering, more especially in India where 80 per cent of the people make their livelihood by agriculture. So they represent a permanent part of the country. The merchants of course are very rich people and they are a very useful class, but they partake sometimes of a floating nature, a millionaire to-day may speculate and next year he may not be able even to have a seat. So are the professional people including poor people like myself. But I am a landlord in a small way, on the same scale on which you can say that the domestic fly is a bird. It has got all the attributes of a bird, it has got wings and so forth. I am like that, but I am a landlord all the same, and I think that these permanent interests in the country should be more represented than the floating interests. The floating interests also ought to be represented, they are very much represented now, and the agricultural part is very poorly represented, more especially the aristocratic part, that is to say, the landowners who have been owning lands for generations. There are a few of them in this Council at any rate, there is no doubt about it—but in the other House they are in a very small minority and that ought not to be. This is a matter which ought to be considered but I do not want to talk about it further.

To bring my remarks, then, to a close, I recommend that those matters on which the minority and majority are agreed should be given effect to at once; and as regards the others they may be taken into consideration as early as convenient, as occasion arises, and, lastly, that the landed interests or the landowners' interests, which are very poorly represented at present, should, if possible, be better represented and more adequately represented here so that their views would be available to us. For all these reasons, Sir, I heartily support the amendment put forward by my Honourable friend, Mr Saiyid Raza Ali.

THE HONOURABLE MR V RAMADAS PANTULU (Madras Non-Muhammadan) Sir, I rejoice most profoundly that the Government have opposed the amendment of my Honourable friend, Saiyid Raza Ali, and I welcome even more gladly the speech which the Honourable Mr Crerar has made. It is clear from what the Honourable the Home Secretary has said that all the co-operation is to come from one side. I thought that the Honourable Mr Raza Ali's amendment—a most innocent one—was one which the Government could easily see their way to accept. All that it asks for is that the recommendations of the majority may be given effect to and the recommendations of the minority may be taken into consideration. Well, Sir, if His Excellency the Viceroy has asked the Legislature to co-operate with the Executive and if the same appeal is made by the Honourable the Home Member I do not see how it is possible to extend our hand of co-operation when even such a small amendment as this is opposed.

One of the Ministers of the Madras Government asked me what attitude I would take in the debate on the reforms in the Council of State, and he asked me one pertinent question. He said "It is very clear from the report of the Madras Government and from the evidence tendered before the Muddiman Committee that the party in power in the Madras Legislative Council have heartily co-operated with the Government and tried their best to make dyarchy a success. That fact is incontrovertible. Then, are the Government prepared to-day to transfer all the subjects in the Madras Presidency so as to abolish the distinction between the reserved half and the transferred half? After all in a federal system of government it is not possible to take the whole of India together. Therefore if their profession of sympathy for those who have worked dyarchy is genuine why have they not done something to give provincial autonomy to Madras?" I put it to the Home Member, Lord Birkenhead profoundly praised the Madras Ministers for their hearty co-operation with the Government. In that case what have you done for Madras? We are therefore, Sir, inclined to be sceptical as to the genuineness of the Government's appeal for co-operation, and I am strengthened in that view by the attitude of the Home Secretary towards this amendment. I am myself not inclined to accept it—I am equally opposed to the amendment, though for different reasons. My friend asks that the recommendations of the majority may be given effect to and the recommendations of the minority may be considered. Now, Sir, after reading the report very carefully, I see there is a certain amount of incompatibility between the two which cannot be really bridged over. The majority report insists upon working the existing system. That means that dyarchy has got to be worked for what it is worth. Many arguments have been addressed against the continuance of dyarchy, and I do not want to repeat them now. My own experience of dyarchy from what I have been able to observe of its working in the various provinces is this. It has brought three new evils into the constitution, which did not exist before the reforms. The first evil is the poison of communal representation and separate electorates, which is disintegrating our national life to-day. The second thing is that it has strengthened the position of the Services to such an extent that they are now placed practically beyond the control of the Indian Legislatures. Thirdly, in some provinces, of which I have personal experience, the position is this. Where the party in power has not got the support of the elected portion of the House, they depend entirely for their existence upon the sweet will and pleasure of the bureaucracy. In my own province, Sir, the party in power has no majority, except with the help of the officials and the nominated Members, and so they win their point always with the help of the bureaucracy and their nominees. The result is that for the very existence of the party they have got to depend on the bureaucracy. Sir, on the very first day of the meeting of the present Madras Council, a motion regarding a vote of no confidence was brought, and every elected Member of the opposition voted against it, but the party in power succeeded in defeating it by one vote with the help of the bureaucracy. That shows that the bureaucracy is much stronger to-day than it was before the reforms, because even the party in power has to depend for its very existence upon the bureaucracy. These are the three things which the Reforms have brought to us. Therefore, we are opposed to dyarchy on broader grounds of principle and not merely upon the details of its working. While the majority report says

that dyarchy can be worked smoothly and better by removing some of the administrative obstacles which now stand in its way, we not only hold that it is unworkable but also believe that the working of it will lead to more and more dangerous results, and that the constitution will be more and more impaired. The minority report, no doubt, as correctly pointed out by the Government, technically makes only one recommendation, to appoint a Royal Commission. But it lays down certain principles. The minority enunciate three fundamental principles. The first is the transference of power from the Secretary of State to the Government of India, the second is that while the Government of India are now responsible to the British Parliament for the good government of India, hereafter, the minority want to make the Government of India responsible to the Indian Legislatures, and the third principle is that the system of dual responsibility in provinces should be abolished, and in its place a unitary form of government responsible to the Legislature should be established. These are the three fundamental principles which the minority lay down, though their recommendations tend to culminate in the appointment of a Royal Commission. Therefore, Sir, I see so much of incompatibility between the majority and the minority view, that it is really not possible to frame any amendment or Resolution to give effect to the proposals of the one as well as the other. You must have either the one or the other. But advance is not possible under either. I can accept neither the one nor the other as a Swarajist. Both are opposed to our demand. That is the view of Swarajists, and I for one make no secret of my view in the matter that I am opposed to both the majority and minority reports.

There is one thing more, Sir, which I would like to say. Yesterday when I was referring to the majority report, I said that a majority of the majority were officials. Out of the five, I believe, three are officials, and therefore much weight should not be given to the views expressed by them. The Honourable the Home Member was pleased to say that we have taken to condemning the capacity of officials and that we have not judged properly their services to the country. After all he said there is no reason why people who have grown grey in the service of this country and who mean well by the people and the country should be distrusted. Well, Sir, it is not a question of trust really. It is a question of our past experience. I will only quote, Sir, two small opinions with regard to the British official in India. The late Mr. Gladstone, speaking of the "man on the spot" theory in the House of Commons said about Indian officials.

"It is a sad thing to say, but unquestionably it happens not infrequently in human affairs, that those who ought from their situation to know the most and the best, yet from prejudice and prepossessions know the least and the worst."

I will quote another statesman of India who is much respected, and who was not hostile, I should say, to the Government. The late Mr. Gokhale said.

"The worst features of the present system of bureaucratic rule are its utter contempt of public opinion, its arrogant pretensions to superior wisdom, its reckless disregard of the most cherished feelings of the people, its cool preference of service interests to those of the governed. So, an appeal to its sense of justice becomes a mockery."

These are the words of Mr. Gokhale

Therefore, Sir, that is an opinion which is shared by a large portion of my countrymen. Therefore, we do not want any committees or commissions on which the advice of the officials prevails. That is the reason we have no faith in them. It is now further strengthened by the fact that before the Reforms the Services were against dyarchy because it meant at least the partial transference of power out of their hands into those of the representatives of the people, but they are now so much enamoured of it that they do not want to leave it. They want to stick to it, because any step forward would mean a further transference of power into the hands of the representatives of the people. Therefore, they say, let us stick to the position we have secured. And the second reason is that under dyarchy the position of both the Services and the bureaucracy in the Council has been immensely strengthened and they do not want to part with the advantages they have secured. Therefore, a very heroic attempt is being made by the bureaucracy to stick to dyarchy. Therefore, Sir, any amendment which seeks to give effect to the majority report is certainly not going to receive our support, and I rejoice that the Honourable Mr. Crerar has opposed this and given a very good reason for it by saying that he would not co-operate with the Honourable Sayid Raza Ali because the amendment did not concede all that the Government wanted. Therefore, Sir, if we are unable to co-operate with you, we are not to blame. We have tried to extend the hand of co-operation to you on honourable terms. But if you say we should co-operate only on your own terms, I think we can do without it, and I think we have convinced the country that the Government are wrong and not those who have come to work the constitution to the best of their ability.

THE HONOURABLE SIR ALEXANDER MUDDIMAN (Home Member)  
 Sir, I am very pleased that the Honourable gentleman opposite has been allowed to speak at length (although he has not dealt very closely with the amendment, if I may say so) for in the course of his speech he did bring out one or two matters on which I had remained in doubt. In the first place, I was distinctly amused at the attitude of my Honourable friend in regard to the recommendations of the majority report. He says, he will have none of them. Yet he jeers at Government and at my friend the Honourable Sayid Raza Ali for putting up a Resolution dealing with them. In his view the majority report was worthless. We knew that from his first speech, we knew that from the amendment which the House has already rejected. However, he did raise one or two matters which I am very pleased to have an opportunity of referring to. It is his contention, as I understand it, that dyarchy has promoted communal differences. And when he said that he brought out the fact, for it is a fact, that dyarchy whatever may be its merits or demerits has at any rate given the people some sense of realities. If you hand over power—and dyarchy has handed over power, and the proof of it is exactly my Honourable friend's statement—if you hand over power, you get to facts, and his charge indicates we have got to facts. What has been the cause of these communal differences? Just this that power has been granted and the loaves and fishes are now being divided. People are feeling that the vote matters that they are getting something into their own hands, and that, Sir, is one of the greatest defences of dyarchy that is possible. Realities are what the Honourable Member should bear in mind and when he is reminded of them

by facts he will have to take notice of them. It is not by controversy, it is not by speeches that these matters are brought to notice. It is by the hard logic of facts. So much for that portion of the Honourable Member's speech. I must further point out that it ill becomes him to try to make capital out of the attitude of Government towards the recommendations of the majority report. I was told in another place by one under whose banner the Honourable Member serves that I can take a gift of them. They were returned to me thrown back. I explained in that House, as I explained here again, that these are recommendations which I at any rate consider are of importance, for I myself was a signatory to the report. If they are returned to me, they are returned in a spirit of non-co-operation. They were made honestly and fairly but that is not to avail them?

As to the attitude of Government, that has been very carefully explained by my Honourable friend Mr. Crerar. He did not say he opposed the amendment except on the ground that it would commit Government to an extent to which Government cannot commit themselves. To give effect to the recommendations in terms of the amendment would mean that Government here and now accept all the recommendations of the majority report. That is not the case. There are many of them under consideration. Certain of them have been accepted and I have brought forward in another place Bills and moved Resolutions giving effect to them, and I understand that certain Resolutions have already been moved in this House. We are taking action. We have dealt with the most important recommendation, the investigation of provincial autonomy. We have been fortunate in securing the services of a Parliamentarian whose reputation has not yet been attacked in either House. Sir Frederick Whyte, the late President in another place, and who combines with his Parliamentary experience the advantage of a first-hand knowledge of the Indian Legislatures, has been good enough now at our request to undertake an examination of those points which are of primary importance in any serious consideration of provincial autonomy, namely, the relations between the Central and the Local Governments. My Honourable friend's amendment, as I say, would bind us beyond what we can be bound. As to the second part of his amendment, I have not much to say. He recommends

"and that he do take into careful consideration the recommendations contained in the minority report"

In so far as those recommendations are recommendations dealing with the present constitution we have no difficulty. As regards the other recommendations, there is only one. The whole importance of the minority report is based on the fact that they recognise, as I hope this House has already recognised, that before you can have a great step forward in constitutional reform, you must have a Royal Commission or some inquiry of that nature. Therefore, subject to that reservation, there is no objection to that part of my Honourable friend's amendment. Indeed, there is not great difference at all between us. There is no rejecting co-operation.

I think that disposes of all I have to say on the amendment. But, as it is unlikely that I shall have another opportunity of addressing this House, I would ask you, Sir, to permit me to go a little out of order. Sir, as far as I can

see, I shall not speak in this, the first Council of State, again I was its first President and I think I may claim to have many friends in the House First of all I must deal with the Chair You have served with me, Sir, in many capacities, and you have succeeded me in several offices Secondly, the Leader of the House I knew him first as a personal friend, then as one of my masters, then as one who sat at my feet and now my colleague, but alas will not long remain so, though I hope he has been and will always remain my personal friend And then those who sit behind me, to whose assistance and loyalty I owe so much both in the Chair and in my present position—the Home Secretary who puts forward the views of my department so ably in this House, Mr Thompson and others Then in this Council very old friends some of the stalwarts of the old Council—Sir Maneckji Dadabhoy, Sir Umar Hayat Khan, Raja Sir Harnam Singh, Mr Sethna and Sardar Jogendra Singh who are not here to-day, Mr Khaparde and last but not least that very old and dear friend of mine, the Nestor of the House, Sir Dinshaw Wacha who gives us the fruit of his long experience with the fire of youth Long may he continue to do so! Then there are other friends whom I have met in this Council who attend its meetings so regularly and have done so much to give that corporate existence to this Council, of which I am so proud—Saiyid Raza Ali and Sir Arthur Froom who has set by his regular attendance a good example to some of his European colleagues and my distinguished friend from Bihar who speaks one word with great firmness

It is not in the probability of things that we shall all assemble together I therefore asked you, Sir, to permit me to break the rules of the House and I hope you and the House will pardon me I have received from this Council the greatest kindness both in the Chair and as representing Government The Council has been the means of my renewing many old friendships and making new ones, and I can honestly say that when I leave you to-day it is with a feeling of friendship for every Member of this Council

THE HONOURABLE MR J CRERAR I move, Sir, that the question be now put

THE HONOURABLE THE PRESIDENT The original question was that the following Resolution be adopted

"This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government"

To which an amendment has been moved

"That the word 'and' after the words 'Reforms Inquiry Committee' be omitted, the word 'effect' be substituted for the word 'consideration', and at the end of the Resolution the following words be added, namely

- 'and that he do take into careful consideration the recommendations contained in the minority report'."

THE HONOURABLE SAIYID RAZA ALI Will you put it, Sir, in two parts, the first part and the second part separately?

THE HONOURABLE THE PRESIDENT    The question is

“That in the original resolution the word ‘effect’ be substituted for the word ‘consideration’ ”

The motion was negatived

THE HONOURABLE THE PRESIDENT    The question is

“That the word ‘and’ after the words ‘Reforms Inquiry Committee’ be omitted and at the end of the Resolution the following words be added, namely

‘and that he do take into careful consideration the recommendations contained in the minority report’ ”

The motion was negatived by 28 votes against 7

THE HONOURABLE THE PRESIDENT    Order, order    The question is that the following Resolution be adopted

“This Council recommends to the Governor General in Council that he do accept the principle underlying the majority report of the Reforms Inquiry Committee and that he do give early consideration to the detailed recommendations therein contained for improvements in the machinery of Government ”

The motion was adopted

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Wednesday, 16th September 1925

# RESOLUTION RE STANDING COMMITTEES TO DEAL WITH BILLS RELATING TO HINDU LAW AND MUHAMMADAN LAW

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I move

"That this Council recommends to the Governor General in Council that in order to give effect to the recommendation in paragraph 120 of the Report of the Reforms Inquiry Committee the Indian Legislative Rules and the Standing Orders of this House be amended so as to provide as follows

- (a) two Standing Committees, one to deal with Bills relating to Hindu Law and the other with Bills relating to Muhammadan Law shall be appointed,
- (b) appointments to these Committees shall be made by a Committee of Selection the Members of which shall be appointed at one of the first meetings of the Council to be held in each year and should hold office for one year from the date of nomination;
- (c) the Committee of Selection shall consist of the President, and the Leader of the House supplemented up to a total number of 6 members on a motion moved by the Leader of the House so as to represent the main divisions of opinion in this House,
- (d) the Standing Committee for Bills relating to Hindu Law shall consist of the Honourable the Home Member, the Honourable the Law Member, if they are Members of the Council, and 15 Hindu Members nominated by the Committee of Selection, so as to include persons well versed in Hindu Law and representatives both of the orthodox and reforming sections of the Hindu Community,
- (e) the constitution of the Standing Committee for Muhammadan Law shall be similar to that of the Committee on Hindu Law except for the substitution of 10 Muhammadan Members for the 15 Hindu Members;
- (f) the Members of each Standing Committee shall hold office for one year but may be re-nominated by the Committee of Selection in successive years,
- (g) a Bill which has been referred to the Standing or a special Select Committee in one House shall not be referred to the Standing Committee or a special Select Committee in the other House,
- (h) as soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law, it shall be referred to the Standing Committee concerned without further motion;
- (i) the Standing Committee shall have power to examine witnesses and to circulate a Bill, but when it directs circulation the fact shall be reported to the Council,
- (j) the further procedure in the Council after the report of the Standing Committee received shall be the same as the procedure on receipt of the report of a Select Committee"

This, Sir, is a somewhat lengthy Resolution and raises a question of great practical importance, but nevertheless it is not one on which I need detain the House at any very great length. The origin of the recommendation which was made by the Reforms Inquiry Committee and which is now put in precise and detailed form before the House really goes back to a condition of things which has long been the cause of concern and attention to those interested in our legislative processes. It has frequently been complained by members of nearly every community in India having a special code of religious rites and usages or of social rites and usages that the safeguards provided by our constitution for premature and ill-considered legislation are in some respects defective—Those safeguards, as Honourable Members are aware, are principally two—first of all, the necessity, in the event of any measure involving the rites and usages of communities in India being moved, of obtaining the sanction of the Governor General. Furthermore, in respect of provincial measures having the same bearing on social or religious rites and usages, there is a certain provision for reservation. That, however, it has been contended by the critics of our legislative procedure, is not enough. Government have been diversely criticised from two points of view. They have been criticised by advanced opinion for an alleged hesitation and reluctance themselves to bring forward important measures of social reform affecting the usages of Indian communities. They have been criticised and perhaps even more stringently criticised for acquiescing in, or promoting, what has been represented as premature and ill-considered attempts at innovation in these matters. Now, Sir, it is not for me at this stage—nor am I concerned at this stage—to pronounce upon the rights and wrongs of that particular controversy, but it is a difference of opinion which is reflected in almost every great community of Indian society and in almost every phase of opinion. It is reflected even in this House. I have myself been reproached by my Honourable and learned friend opposite with the fact that Government legislation in these matters no longer recalls those spacious days when drastic and summary legislation was brought in to abolish such usages as *sati* or female infanticide. On the other hand, it was only a few days ago that my Honourable friend Lala Ram Saran Das, took entirely the opposite point of view. Well, Sir, the real solution of these two divergent points of view will necessarily be a matter of time and development. It will be necessary I think for the zeal of the more ardent reformers to realise—as Government have themselves realised—that they like Government must accommodate themselves to the forces of public opinion. Legislation on these matters may be easy enough to put upon the Statute-book, but it will not become really effective unless it is supported by a reasonable preponderance of effective public opinion in the communities concerned. On the other hand, those who take the strictly orthodox point of view will, I think, in due course learn that they also will be compelled—I will not say entirely—to abandon their position and to move with the times. Perhaps the solution will be that orthodox opinion will in the end be best exercised, not in obstructing but in guiding and moderating the activities of those who desire more rapid reforms, and this will perhaps in the end give us as a resultant progressive but at the same time prudent legislation.

Now, Sir, the proposition which I have to lay before the House, as I have explained, does not purport to offer any solution, or at least any complete solution, of that fundamental controversy. But it does afford a practical means of ensuring that some of the complaints which have been made with regard to our legislative methods and with regard to some of the measures which have actually come before us—of ensuring that these measures will receive an expert examination by persons really qualified to examine and to pronounce upon their merits. It will ensure further that all opinion—I will not say enlightened opinion, nor will I say obscurantist opinion,—but all opinion legitimately concerned in these matters will have a full, a fair, and an impartial hearing. The procedure which we propose is borrowed from the procedure of the House of Commons. Briefly speaking, it involves the appointment by this House of a Selecting Committee on the motion of the Honourable the Leader of the House. That Selecting Committee will be charged with the duty of nominating two Committees who will be concerned respectively with Muhammadan and with Hindu Law. The members of those Committees will hold office ordinarily for one year, but may be continued in their membership if it is considered desirable by the Selecting Committee.

The procedure proposed will refer only to Bills brought in by private Members, that is to say, Government measures for reasons which I do not think I need enlarge upon,—will not come within the operation of these rules. It does not follow that, if a Government measure is brought in which does impinge upon matters of religious or social usage, such a measure will not or cannot be referred to a Committee of this kind. In the ordinary process of reference to Select Committee it might be perfectly practicable in any particular case to arrange that a Select Committee should be the same body though under a different title as the Standing Committee for which these proposals provide.

I have only one word more to say and it is this. It will be observed that these proposals are intended to apply in the first instance only to the Indian Legislature itself. It will depend a great deal upon the result of the experiment whether we shall proceed further and suggest that the same procedure should also be adopted in the Provinces. The principles however of the measure are such as to promise that the experiment will attain a very considerable degree of success. It is in that hope and in the hope that the House will concur in my general conclusions, that I leave the matter entirely open. I only wish to ascertain the sense of the House in this matter, and I hope it will concur both in my anticipations and in my conclusions.

**THE HONOURABLE MR V RAMADAS PANTULU** (Madras. Non-Muhammadan). Sir, after listening to the very careful and able speech of the Honourable Mr Crerar I regret I cannot accede to the principle of this Resolution. First of all, Sir, I am frankly and very strongly opposed to the creation of these communal compartments in the Legislature. I do not concede for a moment that in matters of legislation on Hindu and Muhammadan jurisprudence, these committees which are to be constituted should consist of either

wholly Hindus or wholly Mussalmans I should certainly not forego the services of eminent Muhammadan lawyers in matters relating to Hindu law, nor do I think that our Muhammadan friends could be so exclusively communal in their outlook as to deny themselves the services of such Hindu jurists as their committee may need. After all the Legislature has to act as a whole and ought not to set up expert bodies on communal lines. I know enough of such experts in various bodies on which I serve and I do not want to see the principle applied here.

Secondly, Sir, if the Honourable Mr Crerar hopes that representative opinion will be secured by a sort of double distillation—the House appointing 6 gentlemen to constitute a selection committee and the 6 appointing 15 members of the Hindu community in their turn, who will be representative of the Hindu community—he is very much mistaken. It depends on who the 6 gentlemen on the Selection Committee are and which 15 members they will select for the Standing Committee. If he thinks that either those 6 gentlemen on the Selection Committee or the 15 gentlemen they choose will command the confidence of the country, I should say he is not calculating aright. Only the other day we passed a very important measure dealing with testamentary and intestate succession which affected most largely Europeans and Indian Christians. That emanated from a committee of Hindu and Muhammadan lawyers and there was not a single complaint about the value of the work turned out by them. Therefore I think on principle this thing is very vicious. I have read very carefully paragraph 120 of the Reforms Inquiry Committee's Report which deals with this question and the reasons they adduce there are not convincing. They point out at page 98

“The existing constitution does already contain general protections against legislation affecting the religion or religious rites and usages of any class of British subjects in India. Previous sanction for the introduction of any such measure in the Central Legislature is required by section 67 of the Act. If it has not been previously sanctioned any such measure passed in a local Legislature must be reserved for the consideration of the Governor General under the Reservation of Bills Rules”

They go on to say however

“The further provisions which we consider are required are provisions to secure that such legislation shall not be passed without thorough examination by persons well versed in the law of the community concerned.”

I cannot follow this later statement. Their recommendation about the constitution of Committees is not followed. The majority report says

“It might be found advisable for the Standing Committee and the Selection Committee to be Joint Standing Committees and a Joint Selection Committee of the two Chambers”

I do not think that is proposed now. I think each House is to have its own Standing Committees and its own Select Committee. If the proposal was that of the Reforms Inquiry Committee, that the Standing Committees and the Selection Committees should be set up at least as Joint Committees of both Chambers, there might be some sense in the proposal, but if the two Houses are to have their own Selection Committees and their own expert bodies, I think the result will be really disastrous. Then I may also point

out that the minority, which consisted of such very eminent jurists as Sir Sivaswamy Aiyer, Mr Jinnah and Dr Sapru, were opposed to this. At page 193 of the report the minority oppose this proposal and say

"As regards the recommendations of the majority in paragraph 120 of their report we have considered their recommendations. While we appreciate the importance of the subject we feel that under the present Constitution section 67(2) provides a sufficient safe guard against any hasty or ill advised measure affecting the religion or religious rites and usages of any class of British subjects in India. We recognise that, having regard to the conditions in India, it is not easy at all times to draw a sharp line between social and religious usages. While we understand the spirit of caution which has led the majority of our colleagues to recommend the appointment of Standing Committees of the Legislature for social legislation, we do not feel ourselves justified in committing ourselves, more particularly because we think the subject has not been sifted in the manner in which it might have been. We think that the importance of the subject should be borne in mind when the Constitution is revised and the Legislature are made truly responsible."

I entirely associate myself with these weighty observations of the minority report and this attempt to legislate piecemeal, to give effect to the recommendations of the majority report according to the resolution brought forward the other day which some of us very seriously opposed, as I think a procedure which ought not to commend itself to this House.

Coming to the details of this Resolution, I will only deal with two of its clauses. Clause (g) is one to which I am particularly opposed.

Clause (g) says

"A Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House,"

I really do not see why it should be so. Supposing a Bill originates in this House and is referred to a Standing Committee of this House, I do not see why the Assembly should forego the advantage of having a Select Committee of its own or a Standing Committee of its own to consider a Bill which may be of considerable importance. It is a matter of opinion and I know that in this matter the Honourable Sir Maneckji Dadabhoy and myself differ very greatly. He has very great faith in this House, I have little or none. Sir Maneckji Dadabhoy may not attach any importance to a report of a Committee of the other House. He said so on many occasions. On the other hand I have faith in the Committees of the other House. But when it comes to a difference of opinion between a man like myself and Sir Maneckji Dadabhoy, the House may probably agree with him. But there is no reason to deprive each House of the benefit of the advice of its own Committee. So it is a provision which will not work harmoniously and will not be in the interests of the Legislature. Indeed I am unable to see what was at the back of the mind of the Honourable mover of the Resolution. I for one do not see the principle involved in the suggestion.

Then again, Sir, in clause (h) there is one matter to which I take serious exception. It says

"As soon as leave is given to introduce a Bill other than a Government Bill and subject to paragraph (g) as soon as a Bill other than a Government Bill which has been passed by the other House is laid on the table of this House, if the Bill is certified by the President to relate to Hindu or Muhammadan Law it shall be referred to the Standing Committee concerned without further motion."

Sir, the object of this I understand is that in matters of social legislation the matter would be sifted by the Standing Committees. Even if Government undertake social legislation I do not see why they seek to exempt themselves from the operations of this Resolution. In fact the people object more strongly to legislation by Government in social and religious matters than to legislation by private individuals. If my Honourable friend Sir Deva Prasad Sarvadhikary brought forward a Bill relating to Hindu law it would necessarily go to the Standing Committee although my Honourable friend knows the position and knows the sentiments of the Hindus and their customs and usages; yet if my Honourable friend Mr. Cramer brings in a Bill on behalf of the Government in this House, it need not go before this Committee. Therefore all the advantages that are claimed for this Committee and all the benefits which are said to be secured by this representative opinion of the experts on this body, are cast away to the winds as soon as Government try to legislate in social matters. If there is any sense in this Resolution, it is the Government that ought to protect themselves by the opinion of experts in Hindu and Muhammadan law when they seek to legislate on these matters and should be anxious to strengthen their hands by the opinions of experts sitting in these Committees. Instead of doing that they exempt themselves from the operation of these Committees and they claim a right to proceed with social legislation without the necessity of reference to the Standing Committees. I think that is putting things in the reverse order.

se days to certain people what a red rag is to a bull. People unfortunately e pleasure in introducing these expressions even when there are no communal stions involved. If I followed my Honourable friend, Mr Ramadas tulu, correctly, he is opposed to the setting up of these Committees because thinks that they will be communal committees which will not lead to the ering of a spirit of nationalism in the country or to the fusion of communi-

His point was, if I followed him correctly, "Why have two Committees? y not have one Committee and entrust both tasks to that Committee?" w, I am free to admit that there is some force in that argument, but I think

Honourable friend is entirely wrong when he says that under the terms he Resolution one Committee will consist exclusively of Muhammadans l the other of Hindus. If my Honourable friend will look at the terms he Resolution, he will find that it will be open to the Committee that is deal with Hindu law to have one or two Muhammadans. Similarly, it l be open to the Muhammadan Committee to have one or two Hindu members

fact, it may be that some of those members will be officials. All the same, not correct to say that they will consist exclusively of Hindus and Muham- dars. But making a present of that fact to my Honourable friend, I ask— here any great harm really if Hindus are appointed to deal with Hindu ial rites and customs and usages and Muhammadans to deal with Muhammad- rites and customs and usages? I do not think my Honourable friend

find that these Committees on the whole, if they are constituted on these s to which he is opposed, will work less satisfactorily than would be the e if his objections were to find acceptance at the hands of the Council. My ousable friend is strongly opposed to the constitution of these Committees foreshadowed in the Resolution. The Honourable Sir Deva Prasad Sar-

hikary accorded his strong support to him on that point. The short nt, Sir, is this. It appears from the terms of the Resolution that these Com- tees will be appointed in all likelihood—the point is not clear—by the Gov- ment and that the elective principle will not be put into force so far as the stitution of these Committees is concerned. Now I am free to admit that

terms of the Resolution are rather vague. It may be that the personnel he Standing Committees will be in the hands of the Committee of Selection l they will fill all the posts by a process of selection and appointment, or it y be that the Government will give the right to this Council to elect a large portion of the members of the Committee. As I have submitted, the nt is rather vague, but so far as I am concerned I am for the two Houses of

Indian Legislature being certainly given the right to elect at least half of members of the Standing Committee or Committees as the case may be e Honourable Mr Khaparde also made that point. Sir, it is very impor- t that all these Committees should not be appointed either by Government by the Selection Board or by any other body, but the two Houses should tainly be given a right to elect a large proportion of the members. In the rd place, objection was taken by two of the Honourable Members, the ousable Mr Ramadas Pantulu and the Honourable Sir Deva Prasad Sar-

hikary, as to how these two Standing Committees will set to work. The estion was put, I believe, by the Honourable Mr Ramadas Pantulu very arly, "Will each House have Standing Committee of its own or will there a Joint Committee of the two Houses?" Now, Sir, if each House is going

to have its own Committee, we could no doubt make a beginning, but for obvious reasons difficulties will certainly be experienced in the working of the system. It would be much better if we were to have a Joint Standing Committee of the two Houses for each system of laws. And I think each House would be in a better position to help to improve all rude, crude, and undigested matter that is sometimes put forward before this House and especially before the other House by some Members in the form of Bills. I for one, Sir, would suggest to the Government to give careful consideration to the last words of the majority report contained in paragraph 120. They say

"It might be found advisable for the Standing Committees and the Selection Committee to be Joint Standing Committees and a Joint Selection Committee of the two Chambers."

I find that that particular portion of the recommendation has not been given effect to in the Resolution proposed.

One objection put forward by my Honourable friend, Mr Ramadas Pantulu, was that this Resolution should not find acceptance at our hands because the minority portion of the Muddiman Committee was opposed to it. He cited a certain passage from page 193. Now, Sir, on looking into the report of the minority it appears that the minority made some casual remarks on this suggestion which was definitely made in a careful manner by the majority. The reason why the minority was opposed—if my Honourable friend will look at page 193—is that according to the minority, the majority had not sufficient material, had not sufficient evidence at its disposal to make any specific recommendations on the subject. We are not bound by the report either of the majority or the minority. We are to go into the grounds on which their opinions are based. Now, if Honourable Members will analyse the grounds, they will find that that is the sole ground that has been assigned. I for one am not prepared to accept this particular suggestion of the minority. After all, these committees are going to be an experiment and as my Honourable friend, Sir Deva Prasad Sarvadhikary has pointed out, we have allowed five years to elapse without doing anything. It is high time that we set ourselves to work in right earnest. If this experiment works out all right, so far so good. It

1 P.M.

will be open to us to consider improvements on it.  
If it works to the disadvantage of the community we will certainly discontinue it.

Another objection was taken by my Honourable friend Mr Ramadas Pantulu particularly to clause (g) which says

"a Bill which has been referred to the Standing or a Special Select Committee in one House shall not be referred to the Standing Committee or a Special Select Committee in the other House."

He said that was very unsatisfactory and it would work to the prejudice of the other House. Now my Honourable friend will see that this recommendation in all likelihood is based on Rule 29 of the Legislative Rules which are in force to-day. That particular rule, rule 29, says that any member may move as an amendment that the Bill be referred to a Select Committee, and, if such motion is carried, the Bill shall be referred to a Select Committee provided that



the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers. I believe that is the principle that has been accepted, that is the principle I believe on which the Resolution is based. Then as regards the troubles of private Members who are used to promoting Bills my Honourable friend has pointed out that this Resolution will work hardship so far as they are concerned, whereas it would leave intact the arena of legislative activities of Government. This point has already been answered by my Honourable friend Mr Khaparde. Government legislation as a rule is undertaken with great care and after consultation with public opinion and certainly with Local Governments, whereas if a private Member takes it into his head to bring forward any legislative proposal, he sometimes drafts his Bill on a postcard. Bills have actually been drafted on postcards and have been sent to the Legislative Department, and if he gives one month's notice to the Legislative Department he has the right to bring it forward. For that reason it is by no means unreasonable that the activities of private Members be included in the scope of the Resolution. Sir, I think on the whole the Resolution seeks to introduce an improvement on the existing system. It may be that some of the provisions can certainly be improved and bettered. Yet I think looking to the fact that this is the last but one day when we are sitting, I hope my Honourable colleagues will give their support to this Resolution, leaving it open to Government and this Council to modify its scope in the light of the experience that may be gathered after it has been in force for some time.

THE HONOURABLE MR G A NATESAN I move, Sir, that the question be now put

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I do not propose to detain the House for more than a very few minutes, but I wish to explain rather more explicitly than I did in my opening speech that if there had been any considerable opposition to this Resolution it was not my purpose to have pressed it. But in view of the preponderance of opinion on behalf of the Resolution which has been clearly shown by the House, I think I can properly and in accordance with the preponderance of opinion expressed, ask the House to adopt the Resolution.

I have only one or two words to say in reply to the criticisms which have been made on the Resolution by my Honourable and learned friend opposite. I have only a few words to say because the work of replying to the greater part of these criticisms has been taken off my shoulders by the speeches of my Honourable and learned friends Mr. Khaparde and Saiyid Raza Ali, and I gather that my Honourable friend Sir Deva Prasad Sarvadhikary was on the whole disposed to accept the general proposition without committing himself to the particular details. Indeed, Sir, a course we at one time contemplated was to submit to the House a Resolution merely endorsing in general terms the recommendations of the Majority Committee and from the course of the discussion I think I may infer that a

proposition of that character would have been adopted practically unanimously and practically without modification. We took the other course of putting a more detailed scheme before the House because we deemed it fair that the House should have a very clear conception of what they committed themselves to in modifying and regulating their own procedure. With regard to the suggestions which have been made on the matters of detail I am very much indebted to Honourable Members who have made them, and I can assure the House that in any further action which we may take upon the Resolution, assuming as I venture now to assume that the House will adopt it, we shall pay very close attention to all these criticisms and all those suggestions.

THE HONOURABLE THE PRESIDENT    The question is —

“That the Resolution\* on the paper be adopted.”

The motion was adopted

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\*See page 482 *ante*

*Wednesday, 9th September, 1925*

# RESOLUTION RE FRANCHISE FOR WOMEN.

THE HONOURABLE MR J CRERAR (Home Secretary) I move

"That this Council recommends to the Governor General in Council that he do proceed to make the amendments in the Electoral Rules required to give effect to recommendations Nos 8 and 9 in the Majority Report of the Reforms Inquiry Committee."

I think, Sir, I shall discharge my obligations in regard to this Resolution if I explain as briefly and concisely as possible, firstly, what the genesis of these recommendations was, secondly, what the precise effect of the recommendations is, and thirdly, what procedure it would be necessary to adopt in the event of the House accepting this Resolution. Now, Sir, firstly as regards the genesis of these recommendations, we have to go back to the provisions of the Government of India Act and the rules framed thereunder, and the opinions expressed by the Joint Select Committee both on the Bill itself, as it then was, and on the Rules. The first point to observe is that the Government of India Act itself imposes no disqualifications on the ground of sex in the matter of admission to the electoral rolls or in that of the right to stand for a seat either on the Local Legislative Councils or on either Chamber of the Central Legislature. As there is no statutory provision of that character, it is open to the Governor General in Council to make such provisions in that respect as he considers fit. Now, when the rules were first under consideration, the Joint Select Committee expressed their opinion on the general question of franchise for women in the following terms

"The question whether women should or should not be admitted to the franchise on the same terms as men should be left to the newly elected Legislative Council of each province to settle by Resolution. The Government of India should be instructed to make rules so that, if a Legislative Council so voted, women might be put upon the register of voters in that province. The Committee have not felt able to settle this question themselves, as urged by the majority of witnesses who appeared before them. It seems to them"—

and this is important—

"to go deep into the social system and susceptibilities of India, and therefore, to be a question which can only, with any prudence, be settled in accordance with the wishes of Indians themselves as constitutionally expressed"

The matter was further dealt with by the Joint Select Committee in their Report on the draft Rules, and they observed as follows. Their observation which I am about to quote relates to the electoral rules for the Legislative Councils of the provinces

"The second proviso to Rule 7 for all Councils carries out the recommendation of the Committee in connection with the Bill relating to Women's Franchise. Without in any way modifying their views on this subject, the Committee think it essential that a constitutional change of this importance should be effected only as the result of a genuine and considered opinion of the majority of the Council, and they have therefore provided that before a Resolution on the subject can be moved, the mover must give not less than one month's notice of his intention to move."

Now, Sir, that is a reference—I should make this perfectly clear—to the electoral rules of the local legislative Councils, and the proviso referred to by the Committee stands in those rules in the following terms

“ Provided further that if a Resolution is passed by the Council, after not less than one month's notice has been given of an intention to move such a Resolution, recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Local Government shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex ”

The House will observe that this proviso contemplates that if a Resolution of the character described is passed by a local Legislative Council, the Local Government are bound to give effect to it by regulation. Now, Sir, from the case of the local Legislative Councils we pass on to the case of the Indian Legislature, and, in particular, to what we are directly concerned with to-day, namely, the Council of State.

The Joint Select Committee observe as follows :

“ Changes have been made in the rules for the Indian Legislature similar to those described in paragraphs 8, 9 and 10. But with regard to women's franchise the Committee have thought it desirable to safeguard their original intention that the decision of this question for each province should rest with the Provincial Legislature, and they have accordingly provided that a Resolution by either Chamber of the Indian Legislature in favour of enfranchising women as voters for that Chamber shall have effect in a province only if the province has itself already taken this step for its own Council.

Now there are two points which I wish to emphasise arising out of this. The first is that these recommendations refer solely to the franchise, that is to say, to the admission of women to the electoral rolls as voters, they do not relate to the admission of women to the right to stand as candidates for either local Legislative Councils or for the Indian Legislature. That is a separate issue which I shall deal with separately. The second point to which I wish to invite the very close attention of the House is this, that the Joint Select Committee expressly contemplated that the initiative in this matter should be firstly in the hands of the local Legislature, and, when the question developed into a question of whether women should be entitled to vote for a constituency of the Council of State, it should be necessary that there should be agreement between the local Legislative Council concerned and the Council of State. Effect has duly been given to the recommendations of the Joint Select Committee on this point. I read a few moments ago the proviso relating to women's franchise as it appears in the electoral rules of the local Legislative Councils. I will now read the proviso to electoral rule No 7 as it affects the constitution of this House. It is as follows



after one month's notice has been given, for a Resolution to be moved in this Council confirming and taking advantage of the procedure allowed by the electoral rules and concurrently it will be necessary that a similar Resolution in the local Legislative Councils be passed. The consequential regulations having been made the procedure will then be complete and women, so far as this Council is concerned and in so far as the provinces which have taken advantage of the provision of the rules are concerned, will be entitled to vote in constituencies of this Council and to sit as candidates for membership of this Council. I should remark that what I have narrated to the House applies not only to election but also to nomination, that is to say, women otherwise possessing the necessary qualifications for election to the House would also be eligible for nomination. And I further wish to point out that on the very important matter of procedure the Reforms Inquiry Committee say —

“We would require that the Resolutions to be passed for the purpose should be in addition to the Resolutions necessary for the removal of the disqualification for being an elector in any of the legislative bodies concerned.”

In other words, in order that the issues may be perfectly clear and precise, the question of the admission of women to vote and the question of their admission to candidature for the Legislatures should be considered and debated as separate issues. The question then before the House is that they do endorse these recommendations of the Reforms Inquiry Committee and they do move the Governor General in Council to amend electoral rule 5 in such manner that, if the Council subsequently affirms its desire that the restriction on women standing as candidates for election to this Council be removed, and if the necessary concurrent Resolutions are passed by the local Legislatures concerned, then that restriction will be removed. That is the issue before the House. I do not intend to say anything on the merits. I have contented myself with explaining the situation as it stands, the situation which this House must take into account. The object of this Resolution is not in any way to deflect or guide the conclusions of Honourable Members but simply to ascertain the sense of the House. I move, Sir, the Resolution standing in my name.

THE HONOURABLE MR V RAMADAS PANTULU (Madras Non-Muhammadian). Sir, while thanking the Honourable Mr Crerar for the Resolution he has brought forward to amend the electoral rules in regard to women franchise, I beg with your leave to move an amendment to that Resolution. I shall first read the amendment and then explain my position. The amendment is —

“That the following words be added at the end of the Resolution, namely

‘And to remove the sex disqualification in the matter of registration on the Electoral Roll of persons who are otherwise qualified to vote in the election to the Council of State.’”

Sir, on the 24th March 1925 I asked this question —

“Will the Government be pleased to state whether any proposal is under consideration to amend the rules relating to election to the Council of State with a view to enable women who otherwise possess the prescribed qualification to vote and stand as candidates at the next election to the Council of State?”

And the Honourable Mr Crerar replied

“Under Rule 7 (1) (b) of the Council of State Electoral Rules —

THE HONOURABLE MR J CRERAR I rise to a point of order, Sir I much regret interrupting the Honourable Member, but I fear there is some misapprehension with regard to the amendment I submit, Sir, that the second part of the Honourable Member's amendment is outside the scope of my Resolution If I understand the Honourable Member's amendment correctly, it is intended to be a Resolution of the kind provided for in the second proviso to rule 7 of the electoral rules My Resolution does not refer to the second proviso to rule 7 It is an entirely separate issue raising chiefly, as I have already explained, the question not of the right of women to vote but the right of women to be candidates for election I submit, therefore, that the second part of the Honourable Member's amendment ought to be moved as a separate Resolution and that it is not within the scope of the Resolution which I have placed before the House

THE HONOURABLE THE PRESIDENT Will the Honourable the Home Secretary say exactly what he means by the second part of the Honourable Mr. Ramadas Pantulu's amendment?

THE HONOURABLE MR J CRERAR I understood, Sir, that the Honourable Member moved this as the second part of his amendment

"and to remove the sex disqualification in the matter of registration on the Electoral roll of persons who are otherwise qualified to vote in the election to the Council of State"

THE HONOURABLE THE PRESIDENT That is in fact the whole of the amendment moved by the Honourable Mr Ramadas Pantulu

THE HONOURABLE MR J CRERAR. That is the material part of it

THE HONOURABLE THE PRESIDENT The whole of it The Honourable Member did not move the portion which possibly is in the Honourable Home Secretary's hands.

It seems to be very difficult for me to rule that the Honourable Member's amendment which he proposes to move to the Resolution is not within the scope of the Resolution There are after all two parts of the Resolution moved by the Honourable the Home Secretary The first part of it deals with the right to vote, but, as the remainder of the Resolution brings in both aspects of the case—the right to vote and the right to stand as a candidate—I think the Honourable Mr Ramadas's amendment must be held to be within the scope of the Resolution. I find a little difficulty, I must confess, in understanding it, but perhaps the Honourable Member will explain it He suggests the removal of the sex disqualification The sex disqualification for voting has, as he is probably aware, already been removed in some cases, and it can be removed in others I understand that his intention is to remove the sex disqualification absolutely and not leave it to the happening of certain contingencies Perhaps the Honourable Member will explain that in his speech

THE HONOURABLE MR V RAMADAS PANTULU Sir, I shall just continue what I was saying. The Honourable Mr Crerar gave the following reply to my question.

"Under rule 7 (1) (b) of the Council of State electoral rules, women are not entitled to have their names registered on the electoral roll of that body, but if a Resolution is passed by this House after not less than one month's notice has been given recommending the removal of the sex disqualification for registration, the Governor General in Council,

under the second proviso to the said sub rule, is required to make regulations providing that women or a class of women shall not be disqualified for registration as electors for the Legislative Council of their province. This question is therefore one for action by this Council and not by the Government of India. As the Honourable Member is aware such a Resolution was passed by the Legislative Assembly in February 1922, but that Resolution affects electors for that body only. As regards the disqualification from being a candidate I refer the Honourable Member to paragraph 67 of the Report of the Reforms Inquiry Committee. The recommendation contained in this paragraph is at present under the consideration of the Government of India."

Sir, in pursuance of this reply, I sent a Resolution asking Government to amend the electoral rules so as to make it permissible for every woman to vote and stand as a candidate. The position is this. Under rule 5 of the electoral rules it is necessary to change the rules in order to remove sex disqualification against candidature. Under rule 7 all that is necessary is to pass a Resolution in this House in order to remove sex disqualification against voting and after that Resolution is passed the Governor General in Council is required to make regulations. Therefore, I am now moving in the form of an amendment the Resolution of which I gave one month's notice, by sending it on the 13th July, as the Honourable Mr. Crerar has himself brought a Resolution which is germane to my Resolution.

The Legislatures of four provinces have removed the disqualification so far as their provinces are concerned. But the Council of State has not yet removed this disqualification and it cannot be so done unless a Resolution for removing this disqualification is passed under the second proviso to the electoral rule 7, which runs as follows

"Provided further that, if a Resolution is passed by the Council of State after not less than one month's notice has been given of an intention to move such a Resolution, recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the Governor General in Council shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex, if they are not so disqualified for registration as electors for the Legislative Council of their province."

Therefore, Sir, the position is this. With regard to the five provinces, namely, Bengal, Bombay, the United Provinces, Madras and Burma, there is no disqualification for women so far as their local Legislatures are concerned. If my amendment is passed, the Council of State electoral rolls will be so revised as to include women of all these provinces. It does not impose any obligation upon the other provinces to do so unless they are so pleased. It would be open to any other provinces besides these five provinces to pass Resolutions later on to remove this sex disqualification in their provinces. Then the women of all these provinces by virtue of this Resolution, as the Honourable Mr. Crerar was pleased to observe, will be entitled to be registered on the electoral rolls of the Council of State. Therefore, my amendment only covers one part, namely, the disqualification covered by rule 7. That is what I venture to do.

I do not think many words are necessary to commend this Resolution, as amended by me, for the acceptance of the House. The Honourable Mr. Crerar has not raised any difficulties with regard to women being enfranchised, and I hope this House, which consists of so many gallant men, will also not see any difficulty in enfranchising women. The argument, Sir, which is generally advanced that the women of India are illiterate and are not in a position to



exercise the franchise is not now accepted There recently appeared in the editorial of an Anglo-Indian journal, which is of a great standing in this country, the *Statesman*, a passage to this effect.

"The women of India as a rule are illiterate but illiteracy and ignorance are not the same and it is not necessary to suppose that Indian women are wanting in shrewdness or capacity The whole history of the land is testimony to the contrary"

Therefore, that view is not really held by many The other argument that is advanced is that men are superior to women in wisdom or capacity It is now as dead as a door nail I do not think this House will revive this argument I therefore do not see any difficulty in commending this Resolution to this House So far as my European colleagues are concerned, they know how their own women fought for political liberty in recent years in England We remember very distinctly the vivid scenes described in English papers some time ago as to how those women "marched in resolute processions, chained themselves to railings at Westminster and were forcibly fed at Holloway" Therefore, my English brothers will certainly sympathise To my Muslim brethren I will only say one word This clause is an optional and enabling clause and it will not compel any Mussalman lady who observes *Gosha* either to attend a polling-booth or to record her vote There are Hindu ladies who do not observe *Gosha* and who are willing to attend polling-booths and participate in the political life of the country, and I hope that Moslem brethren will not stand in their way

I have not come across any other argument against this liberty Only I heard the other day one Member remark—I thought it was a jocular remark—that I was trying to create more rivals in the field of election than there are already there They think that their wives will be rivals in the election and their position will become difficult Sir, the proceedings of our House are often very dull, and, if women are allowed to come in and sit as Members of this House, it will tend to enliven the proceedings of this House greatly I think their presence in the Chamber will attract more visitors to the Visitor's Gallery than this House generally does Women are very useful now-a-days as members of various bodies I am myself a member of some bodies in which women sit with great advantage

In the Madras Presidency we have in our university Women Senators who enlighten us with views which are worthy of consideration and which carry great weight with the Senate In the Corporation of Madras we have lady councillors who render very valuable help to the citizens of Madras Therefore I think that on the Councils also there ought to be women who will render very great help in politics In fact only yesterday I came across a little poem which said that there is no place in which a woman is not and ought not to be The poet said —

They talk about a woman's sphere  
As though it had a limit  
There's not a place in earth or heaven  
There is not a task to mankind given  
There is not a blessing or a woe  
There is not a whisper "Yes" or "No"  
There is not a life or death or birth  
That has a feather weight of worth,  
Without a woman in it

If she can be everywhere I do not see why she cannot be in this Council I am told however that she is not in one particular place A clergyman, addressing a large audience of women in America, remarked, all of a sudden in the course of the sermon, while the ladies were conversing, that there was one place where women were not to be found and that was Heaven When the women looked aghast he quoted the following passage from the Bible as his authority

“ Then there was silence in Heaven for one moment ”

There may be no silence where there are women But silence is not a virtue which this House need encourage We are accused of recording many silent votes for Government Women may relieve us in this matter

Women are everywhere We cannot get on without them and if we do not yield to them now of our own choice, we may have to do so out of necessity later on Women have a right to rule this land along with men The old saying is that the hand that rocks the cradle rules the world If any great Kings ruled and misruled Empires women ruled and misruled great Kings As a Councillor woman had a great past and has a great future So let us have women in this House and they will be able to persuade us to do what is best for this country I hope that the House will not raise any difficulties in the matter of enfranchising women both as voters and as persons entitled to sit in this House With these words I commend my motion

THE HONOURABLE SIR DEVA PRASAD SARVADHIKARY (West Bēngal Non-Muhammadan) The amendment being somewhat ungallantly out of the way, I desire to support the motion of the Honourable the Home Secretary, for the reasons that he has adduced, and for the further reason that the Minority Report has also supported this recommendation at page 188 It says

“ We recommend that women should be enfranchised by rules in every province and also should have the right to stand for election ”

That is directly no doubt on the question of provincial franchise The Minority Report is silent with regard to the question of the Central Legislature but by more than implication is in favour of the idea underlying the motion of the Honourable Mr Crerar When the proper time comes I have not the least doubt that the arguments and sentiments set out in the speech of my Honourable friend Mr Ramadas with which not even the most ungallant of us will venture to disagree, will carry the day In connection with this Resolution it is noteworthy that Government have not waited for the previous approval of the Legislative Assembly or this House for giving practical effect to the recommendation made in the Reforms Inquiry Committee's report This is right from the point of view of the canon that I should like to have laid down and accepted, namely, that where the Majority and the Minority Reports do not disagree and where they do agree, Government should forthwith proceed to take action It has already anticipated matters by moving a Bill for the removal of certain disabilities of members of various Legislatures, and to-day the moving of this Resolution also gives effect to another recommendation of the Reforms Inquiry Committee's Report

That recommendation, as we have seen, is supported by the Minority Report, and I have great pleasure in supporting this motion

THE HONOURABLE THE PRESIDENT      The question is —

“That the following Resolution be adopted —

‘This Council recommends to the Governor General in Council that he do proceed to make the amendments in the electoral rules required to give effect to recommendations Nos 8 and 9 in the Majority Report of the Reforms Inquiry Committee’ ”

The motion was adopted.

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*Tuesday, 8th September, 1925*

RESOLUTION *RE* INDIANIZATION OF THE STAFF AND ESTABLISHMENT OF THE HIGH COMMISSIONER FOR INDIA

THE HONOURABLE MR PHIROZE C SETHNA (Bombay Non-Muhammadian) Sir, I beg to move

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom "

One of the most important changes effected by the Government of India Act was the creation of the office of High Commissioner in the United Kingdom for India, a position analogous to similar appointments made in the United Kingdom by the different self-governing Colonies and Dominions. When the reforms were on the anvil, a Committee on Home Administration of Affairs was appointed, which is better known as the Crewe Committee. That Committee had to inquire into the organization of the India Office and the relations between the Secretary of State and the Government of India. The Committee recommended that the time had arrived for the appointment of a High Commissioner for India in the United Kingdom who should be paid out of the Indian revenues and whose work should be that of an agent to the Government of India. The exact words in which the Committee made the recommendation are as follows:

"We are satisfied that the time has come for a demarcation between the agency work of the India Office and its political and administrative functions, and that the step would commend itself to all classes of opinion in India as marking the stage towards full Dominion status "

In accordance with this recommendation, the Government of India embodied a provision in the Act for the appointment of a High Commissioner for India in England. This appointment could only be made by His Majesty by an Order in Council. On the 13th of August 1920, such an Order was issued by His Majesty in Council authorising the Governor General of India in Council, with the approval of the Secretary of State for India in Council, to appoint a High Commissioner to work as an agent and to perform all the duties pertaining to agency business in England.

This Order empowered the High Commissioner to appoint all officers, clerks and servants in his office. The Order, however, was not unrestricted. There were two limitations. The first was that these appointments should be in consonance with any general or special orders passed by the Governor General in Council, and secondly, it was laid down that any person who was transferred from the establishment of the Secretary of State for India to the High Commissioner's office would have a right of appeal to the Secretary of State against any orders by the High Commissioner in regard to his removal, his suspension, his pay, allowances, promotions, etc. Further, it was laid down that a person so appointed was, for the purposes of section 67A of the Act, to be regarded as a person appointed by the Secretary of State. In other words, the salaries and pensions of these men were non-votable.

I have thus briefly explained the statutory provisions relating to the High Commissioner's office and establishment. On the 14th of February 1924, I asked Government in regard to the cost of the High Commissioner's office and establishment. The Government replied that the cost in 1921-22 including all contingencies was £175,855. They further informed me that the revised estimate of the cost for 1922-23 was £166,400. I am sorry I have not with me the cost of the High Commissioner's office and establishment for later years, but if the Honourable Mr Chadwick in the course of his reply is in a position to give those figures I am sure the House will appreciate it. On the same day, I put another question in regard to the number of staff in the High Commissioner's office. The Government replied that as at 30th September 1923, there were 248 persons in the permanent staff and 319 persons on the temporary staff, making a total of 567 people. The temporary staff consisted of messengers, labourers, packers, etc. I am obliged to my Honourable friend Mr Chadwick for the information he has given me that in the High Commissioner's office to-day, they have exclusive of warehouse men, messengers, packers, etc., a total of 365 persons. This would leave out the lower staff, and I take it that this number of 365 corresponds with the number of 248 in the permanent staff as given to me at the beginning of last year.

Now, Sir, out of these 365, 245 were transferred from the office of the Secretary of State for India to the High Commissioner's office, and since the establishment of the High Commissioner's office, as many as 120 new appointments were made. This gives a percentage of a little over 6. The total number of Indians out of these 365 is only 23. So that out of every 100 on the staff of the High Commissioner, about 7 are Indians and the remaining 93 are non-Indians. Of these 23, five were amongst the 245 transferred from the Secretary of State's office, so that out of the 120 new appointments only 18 Indians were appointed. Twenty-three out of 365 represents, as I have said, a percentage of a little over 6. But I would like to point out to the House that whilst the percentage of the number of persons employed is a little over 6, the percentage of salaries paid to these persons is very much lower than 6 per cent for the good reason that the great majority of these men are filling minor, and I may add, very minor positions.

My object in bringing forward this Resolution is to ask the Government to Indianize the High Commissioner's office as much as and as quickly as possible. The principle of the increasing association of Indians in the different branches of the administration is now fully recognised and firmly established. It is in the forefront of the policy enunciated in the pronouncement of the 20th of August, 1917, and embodied in the Preamble of the Government of India Act of 1919. The High Commissioner is merely the Agent for the Governor General in England. Personally, I should very much prefer that his duties were not what they are but that they were confined to his representing India at big social functions. I have advanced this view on one or two previous occasions in this House and I repeat it again to-day. The agency business for the Government of India, which is carried on by the High Commissioner in London, should preferably and advisedly be carried on in this country. I am not alone in this view. It is the expressed wish of both Indians and

Europeans and they have conveyed this to Government by a Resolution in the Assembly. Government have not carried out the wishes of the Assembly in this respect to any large extent so far, but I hope they will do so by degrees. In the meantime, I quite realise that Government will—I am referring, Sir, to the Resolution in which they asked for rupee tenders and tenders in India;—but I say until that is done, the High Commissioner's office will certainly require a large staff in England itself. The High Commissioner's office is essentially an Indian Department, the cost is borne by India, and yet a large part of its expenses are outside the vote of the Assembly, which I am sure the House will regard as a very anomalous position indeed. Except for the very highest appointments on the staff, the whole establishment of the High Commissioner's office corresponds to any work that is done in any of the Departments in the Government Secretariat in India or in the provinces, and there is no reason why the personnel should therefore be so enormously non-Indian as it is. In fact, from the figures I have given to you, I regard it as scandalous, and I am sure the House will agree with me that out of a total of 365 there should be only 23 Indians.

I recognize that the agency work of the Secretary of State's Department which was done previously by about 245 men was work of a kind to which these men were accustomed, and consequently they could not be thrown over and I have no grievance against these 245 men, including the 5 Indians, having been taken over by the High Commissioner in his establishment. But I do not regard as at all satisfactory the fact that, out of 120 new appointments so few as 18 should have been given to Indians, and this I regard as one more illustration of sacrificing the interests of the Indian to that of the Britisher. In view of the fact that the Department is Indian, that the cost is borne by the Indian Exchequer, and as many as 240 non-Indians were taken over from the Secretary of State's office, justice demanded that of the new 120 appointments, if not all, the major portion should have been given to Indians. Sir, the figures I have quoted reveal the position of affairs and I think the House will agree that this position requires to be ended. There is no reason why the High Commissioner's office should not be manned by Indians. Whether the Government will agree with me or not in the suggestion that all future appointments should be made only of Indians, I am sure the Government will concede that the present percentage is very low indeed and constitutes a very serious injustice.

Director General of Stores Of these five, only one office, namely, that of Secretary, was at one time, I believe, for a period of three years, held by an Indian, an Indian of great promise—I mean Mr J W Bhore,—who discharged his duties remarkably well and to the satisfaction of all concerned I regard it as a very fortunate circumstance that India should have had till now three eminent men filling the post of High Commissioner for India The first of them was the late lamented Sir William Meyer Sir William Meyer was a very distinguished member of the Civil Service He fought the battles of India as best he could I will plead guilty to having in this House once very strongly attacked him for neglecting the interests of the tax-payer in this country and for having given away orders to British manufacturers at much higher rates when he was able to get the same orders placed on the Continent at considerably lower figures

THE HONOURABLE MR D T CHADWICK May I ask what that has to do with the Indianization of the staff?

THE HONOURABLE MR PHIROZE C SETHNA Sir, I am referring to the fact that Sir William Meyer rendered great services to India I am explaining my position that I did say certain things and I know I was pulled up by the Member for Commerce, the Honourable Sir Charles Innes, but I have this consolation that Sir William Meyer sent me word that the Resolution moved in this House strengthened his hands in fighting against vested interests in the City and he would welcome similar proposals in this House or in the other place That, Sir, is the reason of my mentioning the name of the late Sir William Meyer and with great deference to him for all that he did for India The next incumbent of the office was Sir Dadiba Dalal, who was most painstaking and rendered equally efficient services to India, and it is a matter of great regret to this country that he deemed it necessary to resign his appointment, for reasons with which we are not yet acquainted but which I hope will some day be made public To-day we are represented by another Indian gentleman, who is an official, but, although Sir Atul Chatterjee is an official, it is a matter of gratification to find that he is discharging his duties in a manner which is proving equally satisfactory

If suitable Indians can be found to fill the most responsible positions in this country, there is no reason why equally suitable Indians should not be found to fill the higher positions that I have enumerated, and I have said that so far only one Indian has filled the office of Secretary for some little time, and I would certainly suggest that more Indians be put in these higher positions Whilst I am on the subject of these higher positions in the office and establishment of the High Commissioner, I should like to refer to what I understand is a difference that has arisen in regard to the interpretation of the rules This House is aware that some years ago, when there were differences between employers and employed and it was not easy to settle those differences, the Home Government appointed a committee to suggest ways and means whereby such differences could be settled That Committee was called the Whitley Committee, because it was presided over by Mr Whitley, the present Speaker of the House of Commons The recommendation of that Committee was that every large establishment of

Government should have a departmental committee and that differences may be settled by such departmental committees, and, if unsuccessful, that they may then be referred to a national committee. Such departmental committees and the national committee bear the Chairman's name, the first is known as the Whitley Departmental Committee and the other as the Whitley National Committee. I understand that the members who were transferred from the Secretary of State's to the High Commissioner's office now claim that they alone had the right to these higher appointments which I have enumerated, with perhaps the exception of the Chief Accounting Officer and the Secretary. I further understand that this question was referred to the Whitley Departmental Committee on which there are representatives both of officers and of the men, and because they could not come to an understanding, it was referred to the Whitley National Committee. The Whitley National Committee very rightly replied that the High Commissioner's office cannot be regarded as a Department under the Home Government, and that as it was purely a Department under the Government of India, this question could consequently not be decided by them. All I should like to know from the Honourable Mr Chadwick is if any concession has been made to the men in the manner they desire, or if the High Commissioner will continue to have the right to appoint anybody he pleases, Indian or non-Indian, to fill the offices that I have enumerated.

Sir, besides the senior appointments, the service is divided into five different grades. The first is called Administrative, the second and third Higher and Lower Executive, and the fourth and fifth Higher and Lower Clerical. As I have informed the House, out of the 23 Indians, the great majority fill the minor posts in these grades, and it is time now that Government should lay down a rule that from now onwards any future vacancy will be filled, as far as possible, by suitable Indians, whether they are employed permanently in London or whether they are transferred from this place to London for a period of three years. I personally would prefer the latter course in regard to the higher appointments. It will give the men here a chance of knowing the work there and it would also give a chance in London to people having anything to do with India to know our requirements first hand from men who have worked in this country. I think I have been able to show that in the appointments that are made in the High Commissioner's office, Indian interests have been ignored, sadly ignored, and I hope, therefore, that in future Indians will be appointed in far larger numbers, not only in the minor but also in the more important positions. I conclude with the hope that the Government will regard my Resolution as reasonable, fair and equitable.

THE HONOURABLE MR D T CHADWICK (Commerce Secretary)  
 Sir, I intervene in this debate at this early stage as I think it might assist the House and clarify some of the issues. I was glad to hear from my Honourable friend Mr Sethna—in fact, I expected it from him—that in moving his Resolution he had no idea whatever of throwing over the men who had come over from the India Office when the High Commissioner's office was started. He is not proposing, I gather from him, that this Resolution should be carried into effect at the expense of the men who have already served India in the



office or its predecessor for a number of years, it may be for a longer or shorter period. Many of these just joined and served India in the India Office, when they thought that they were engaged entirely by the Secretary of State for India on similar terms as others employed at home, namely, in the English Civil Service. It is not unnatural, when you take over a large body of men from one office to another, that they should make inquiries regarding what their future is likely to be. I will return to that later, but I am certain that the House will be pleased to see that the Mover had no idea of dispossessing or turning these men into the street. If he had any such idea, I am perfectly certain that this Council would not endorse it.

Now, Sir, we have been charged with sacrificing Indian interests. This is the proposition which the Honourable Member definitely put forward. He said that the Government of India should lay down rules that all future appointments in the High Commissioner's office should be filled by Indians. That was the proposition he put before the Council. That is how he described the meaning of his wording "Indianization." I was somewhat puzzled, at first, I must say, in endeavouring to understand what he meant by that word. Now I know and this House knows what he meant by that expression. He has definitely stated to the House that every new appointment in the High Commissioner's Office should be given to an Indian, I expect, excluding messengers and *chaprasis*. He laid a great deal of stress upon the percentage figures. He said that 120 new posts had been created and altogether there were only 23 Indians out of a total staff of 300 odd. That, he said, was a scandalously low proportion. I have ascertained from some of the other High Commissioners their figures. First of all, I must point out about these 120 new appointments, that they were new appointments only in the sense that they for the first time came on the High Commissioner's establishment. They were really to a large extent the transfers as a result of extra work taken over by the High Commissioner in connection with accounts, income-tax and in connection with the conversion of the East Indian and Great Indian Peninsula Railways into State Railways and the closing down of the offices of those companies. It cannot be suggested that the whole of the staff which was employed in those offices and which was accustomed to railway work should be at once dismissed and their places filled by Indians. It was necessary for continuity of work to take over men who had been at the work, and that is how the increase in appointments came about. They are due to the taking over of this additional work.

THE HONOURABLE MR. PHIROZE C. SETHNA: Are they not permanently appointed?

THE HONOURABLE MR. D. T. CHADWICK: No, Sir. They were taken over on exactly the same terms as those on which they were engaged when the transfer took place, but the majority of them are temporary. In the High Commissioner's office a large number of men are on temporary scales. Many of course are also on permanent scales.

The next point the Honourable Member made was that the existing proportion of Indians was scandalously low. He said he knew it from personal inquiries he made in the High Commissioner's office. Before I come to that,

let me first of all give the figures Mr Chatterjee gives his staff, a few weeks ago, excluding messengers, as 368, of which 30 are Indians, that is to say, 8 or 9 per cent I also asked the High Commissioner to address the other High Commissioners and to inquire how their offices were staffed I am authorised by the High Commissioners of the other offices—I naturally asked for such permission—to make public these facts Those offices, the Council will understand, have been in existence for the best part of 20 years Australia, there are 18 Australians out of a total of 196—10 per cent South Africa, 14 are born in South Africa out of a total of 128—11 per cent Several others have temporarily visited South Africa New Zealand, 16 born in New Zealand out of a total staff of 119—13 per cent 10 others have visited New Zealand at some time or other Ireland, which is only one day's journey and not 6,000 miles away, the senior men are from Ireland but the whole of the clerical staff are from London Therefore, the analogy collapses completely The basis, the foundation stone upon which he has erected his edifice has been pulled out

THE HONOURABLE MR PHIROZE C SETHNA Do not be so sure

THE HONOURABLE MR D T CHADWICK Now, Sir, I come to the total cost If the Honourable Member wants the budget figures I will get them for him But that is not the point at issue The point at issue is only one of staff and the rates at which they are paid I have not added the *chaprasis* and staff of that kind The number that I have given is 368 That is a large figure 210 of that 368 are on grades of pay of which the maximum does not exceed £250 a year, that is, Rs 277 a month Another 128 are on grades of pay whose maximum is Rs 444 a month That comes to 338 out of 368 Now, Sir, those are mostly lower grade or what we would call routine clerks I have given you an idea of the maximum to which they can rise They rise to that maximum after 15 years or in some cases 20 years' service It may be a matter of remark why there should be such a large number in the clerical grade As a matter of fact, there is an enormous amount of routine work to be done in the High Commissioner's office His office work consists mostly of agency work, accounts, leave, pay, pension, income-tax, and stores A vast amount of the work that is discharged in that office is not the higher administrative work or the higher executive work which we have in offices in India, but work which has to be done by routine clerks Take the clerical grades They start on the equivalent of Rs 66 a month We are not going to get men to go from India to London to do that kind of work on anything like that figure In fact, the truth of the matter is that with education so much more widely diffused in England than it is in India, the pay of men of equal educational qualifications is on the whole lower in England than in India I do not say that invariably but it happens so in many or in most of the grades And that is definitely so, naturally so and inevitably so when certain technical qualifications are also required as is the case with many of the posts attached to the Stores Branch Take for a minute the shorthand typists I do not think that my Honourable friend will say that the shorthand typists you can get in London are inferior, incompetent or careless They are extremely good The pay that a shorthand typist can rise to in the High Commissioner's office

is equivalent to Rs 152 a month. In my own Department here, in the Commerce Department, the stenographers start on Rs 175 a month. Is it more businesslike to engage men locally or to send them over from here where they can get a starting pay higher than the maximum pay in the High Commissioner's office? From the point of view of business, from the point of view of the interests of India, which is the more preferable course? My Honourable friend says that every single appointment that falls vacant in future should be given to an Indian so that every post in that office is held by Indians. My Honourable friend is the head in India of one of the finest insurance companies in the world and all honour and respect to him for it, for he well deserves the position. The headquarters of that office is not in India. Would it be business economy and would it be in the best interests and increase the popularity of his office in Bombay if he imported Canadians for every single appointment from typist upward in his Bombay office? It is not practical politics. I have not endeavoured to work out the cost of his proposals.

I now come to the 30 odd posts which carry more than Rs 555 a month. Only 6 of those reach Rs 1,100 a month. Many of them are naturally senior controlling posts held by those who came over from the India Office who have already 10, 15 and 20 years' service to their credit. The period of service in England in the Home Civil Service is, I think, not certainly 25 years, but is I think 35 or 30. My Honourable friend says that those men are not to be dispossessed. He inquired whether a guarantee had been given to those men who had come over from the India Office that every senior post as it fell vacant would be given to them. None. Sir William Meyer in the discussion with the staff in the Whitley Committee made it perfectly clear that he reserved to himself the discretion and the right to bring in any man from outside whenever he found it suitable or desirable. He did that definitely and he has left it on record. There are only 30 appointments on and above Rs 555 a month out of 368, and naturally most of the vacancies must be in the lower grades. You cannot help it, but the point I wish to make is that there is an Indian to be found in every grade and not only in the lowest grades. As vacancies occur in the higher grades they are brought in as and when they come. Therefore, I say that my Honourable friend has no justification for the remarks he has made that the state of things is scandalous. We leave the question of appointments to the High Commissioner. He has no justification for saying that our High Commissioners have neglected the interests of India or denied opportunities to Indians.

as Indian Trade Commissioners, all men senior in service who were lent and have since returned to India. Well, Sir, if you have got an establishment numbering 368, in which only 3 posts carry a salary of over Rs 1,111 a month, and two of those posts are permanently filled by men from India, and at one time all three of them were so filled by men with Indian experience, I do not think that it can be urged that the permanent staff that has been taken over has been unduly favoured for the higher posts. Now, Sir, many Indians when joining the office do not remain very long, although they are given an extra £50 a year. Sir Atul Chatterjee during the last 12 months has recruited 12 Indians, of whom three have since resigned. Yet continuity of service in the office is necessary. Employment in the office cannot be used merely as a means of allowing Indians temporarily resident in England to supplement their resources. I will give the principle which Sir Atul Chatterjee follows. It is a principle, which, I think, this House will endorse. We wish to get in Indians in that office and have the office closely linked with India, but I cannot agree that it is to the interests of India either financially or for their reputation in London to endeavour to convert the High Commissioner's office into an Indian colony in London, to make a strictly closed enclave in the metropolis of the Empire. Sir Atul Chatterjee's principle is this "Indian candidates considered to be qualified and suitable are appointed, whenever possible, to vacancies on the establishment" and he endeavours to get Indians whenever he can. That I think, Sir, is the right principle. And I go further. My Honourable friend has rightly and very truly said that every High Commissioner has had the interests of India at heart. I was glad to hear the reference that was made to Sir William Meyer, because he was once my own personal chief, and I hold no man in higher regard or in greater respect. The Honourable Mover says that the successive High Commissioners for India have had the interests of India at heart, Sir William Meyer, Sir Mervanji Dadiba Dalal and Sir Atul Chatterjee, and we expect that the future High Commissioners who will hold office will be animated by a similar spirit.

Sir, this matter of recruitment to their office is entirely in their own hands. We do not want to make any definite rules for an office which is 6,000 miles away. And, Sir, I suggest to this House that, having cleared away, I trust, some of the misapprehensions that may have existed in the minds of some Honourable Members, they will be content to leave the High Commissioner to work upon a principle which he has already followed and which he will be able to follow and carry out more fully as time goes on.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General). Sir, when I first read this Resolution, I confess I was in a predicament, and could not understand the exact aim of my Honourable friend Mr Sethna. I was in the same difficulty which the Honourable the Commerce Secretary has pointed out. But my Honourable friend Mr. Sethna in the course of his speech made it very clear that all he intended was to use his own words "as much and as quickly as possible to Indianize the High Commissioner's Department." Those words relieved me a good deal. My Honourable friend Mr Chadwick has also fully traced the history of the High Commissioner's establishment and has given us valuable information regarding the number of employees, the character and nature of their service. Sir, I



THE HONOURABLE SIR MANECKJI DADABHOY So this will also commit the country to a sort of extra expenditure There is another aspect of the case, so far as the higher appointments are concerned, it must be clearly understood that the High Commissioner's Department has to deal with many technical matters in which special knowledge and training are absolutely necessary You are not going to send people from this country to go through their apprenticeship in the High Commissioner's Department before they are qualified to manage those departments and do the work There is technical knowledge required, and as such it is not possible that the men drafted from this country will be in a position to turn out the same quality of work and be as useful as the men you could get from that country Therefore, both on the grounds of efficiency and economy, the Resolution as it is drafted does not commend itself to me All the same, my friend Mr Chadwick has rightly pointed out that the three High Commissioners so far have done their very best in the matter and have preferentially employed Indians in these departments as far as practicable That is perfectly commendable But there is no guarantee that in future this policy will be consistently followed Fortunately the two last High Commissioners have been Indians There is no rule definitely stating that only Indians are to be appointed to that exalted office It is quite conceivable that the successor to the present gentleman might be a European It is quite possible that, though the Government of India now feel and are anxious that higher posts should, as far as possible, be filled up by Indians, this policy might be overlooked some time or other and it is therefore advisable that some sort of expression of opinion of this Council should remain on record with regard to the Indianization of the High Commissioner's establishment so far as the higher appointments are concerned, provided they are compatible with economy and efficiency It is for this reason I think if I move a small amendment to the proposition of my Honourable friend, Mr Sethna, I trust it will be acceptable both to the Honourable Mover and to Government whose policy Mr Chadwick has so fully and carefully described My amendment will be consistent with the policy of the Government as enunciated by Mr Chadwick to-day I therefore move, Sir, the following amendment —

"That after the word 'taken' in the first line the following words be inserted  
'as far as compatible with economy and efficiency',

and in the second line, for the word 'staff' the words 'higher staff' be substituted "

The Resolution will thus read —

"This Council recommends to the Governor General in Council that steps be taken, *as far as is compatible with economy and efficiency*, to Indianize the higher staff and establishment of the High Commissioner for India in the United Kingdom "

I trust my amendment will commend itself to the Council

THE HONOURABLE MR K C ROY (Bengal Nominated Non-Official) Sir, I am sorry I cannot give a silent vote on this motion I was one of the witnesses before the Crewe Commission and I think, Sir, that, representing the Moderate Deputation, I was the first man to propose the creation of the office of High Commissioner And in this connection I should like to tell the House that the Honourable Mr Chadwick who sits there on the Treasury Bench was

the forerunner of the High Commissioner as he was the Trade Commissioner before him in Old Bond Street Mr Chadwick and I had conversations about the High Commissionership long before it took shape and I always found in him a warm supporter of the idea When the question of the High Commissionership was before the Crewe Committee, we were put to a searching cross-examination by Sir James Brunyate, the details were discussed, the question of establishment was discussed, and we had to concede, in London—, Mr. Samarth and I,—that the Indianization of the High Commissionership would be one of slow growth The High Commissionership, as this House is aware, was established in October 1920 In the beginning the opportunities were very few and the Indian candidates were also very few In recent years, however, I know from personal experience that Sir Dadiba Dalal did his best to attract Indian recruits So did Sir Atul Chatterjee As Mr Chadwick has told the House, from October last year Sir Atul Chatterjee took no less than 12 Indians in his office, of whom I believe 9 are working and 3 have left Perhaps the House would like to know the scale of wages there For a beginner the wage is £2 10s a week with £50 at the end of the year as a prospective bonus. This is not a tempting salary for Indians who live in London

Then, Sir, reference has been made by my friend Mr Sethna to the practice of other Dominion offices In my short experience I have seen many Dominion offices, and I know one or two very distinguished High Commissioners, and the figures which Mr Chadwick gave I knew already unofficially, and at least I know that in one High Commissioner's office there is not a single national of his own serving in that office The Dominion High Commissioners make it a strong point of filling all responsible offices that are charged with direction and control by their own nationals and with experts possessing local knowledge And the same should be our effort But at the present moment our High Commissioner's office compares very favourably with other Dominion offices We have an Indian High Commissioner, an Indian Secretary for the Students Department, the Secretary to the High Commissioner is a distinguished public servant in India, but I cannot, I am sorry, say the same thing of the Chief Accountant as well as the head of the Stores Department

I therefore, Sir, support the Honourable Sir Maneckji Dadabhoy's amendment.

THE HONOURABLE MR PHIROZE C SETHNA Sir, I am not inclined to favour Sir Maneckji Dadabhoy's amendment He proposes the addition of the words "as far as is compatible with economy and efficiency" As regards economy, the Honourable Mr Chadwick has explained that an Indian employee of the High Commissioner's office is entitled to the same salary and emoluments as the English clerks The only difference is £50 overseas allowance. Assuming for argument's sake that all the 120 employed by the High Commissioner after the opening of his office were Indians, it would cost 50 times 120, or £6,000, which I do not consider as very large The second reason is on account of efficiency I hold, Sir, that the work in the High Commissioner's office, with the exception of the five higher appointments that I have enumerated, is not of a kind which requires any special training I go further and say that many Indians will be found in the different parts

of Government service in this country who will be able to discharge the work required of them, if transferred to England, as well and better. Then, Sir, with regard to my Honourable friend, Mr Ramadas's proposal I am perfectly willing to accept his amendment. I hope however I shall have the right of reply.

THE HONOURABLE THE PRESIDENT Certainly

THE HONOURABLE MR D T CHADWICK Sir, I gather there is a difference of opinion about my Honourable friend, Sir Maneckji Dadabhoy's amendment. My Honourable friend Mr Sethna says that there is no technical work, no special work in the High Commissioner's office except in the first five highest appointments. I do not know what he will call the Inspectors of Stores, what he will say of a Surveyor of Shipments, the Examiner of Medical Stores, or the Inspector of Motor Transport. Special technical qualifications are required in many of those appointments. Where you require technical qualifications it is well to remember that facilities for education in England are so much superior and that many men are available and consequently not only is there a larger field of selection but salaries are lower. My Honourable friend says that if the whole 120 men had been appointed from India it would only cost another £6,000. I must point out that those 120 were not men in the senior grades. There are only 30 of the whole 368 in the senior grades and a majority of the 120 were lower paid posts of which I have already spoken.

I am afraid I did not give Sir Maneckji Dadabhoy a complete answer to the point that he raised. It is perfectly true that Indians who are domiciled in England are paid £50 more because they are Indians. If Indians were sent from the Services in India—it has not been done to any extent, there is only the case of Mr Bhore who was on a fixed salary as I was as Trade Commissioner—if men were sent out from the Indian Services, then the principle of extra allowances to which my Honourable friend Sir Maneckji Dadabhoy referred would apply and would be considerably higher than £50 a year. That £50 is a differentiation in favour of Indians against their English brethren both of whom are resident in London. The allowance will be higher for sending men from India. I am perfectly prepared and I ought to make it perfectly clear, that we wish to get an Indian complexion in this office, that the presence of Indians is desired. That is the policy of Government and I agree with much of what my Honourable friends Sir Maneckji Dadabhoy and Mr K C Roy said. But we must not do damage to or hurt those men who are already there. With that reservation I am prepared to accept the amendment of my Honourable friend Sir Maneckji Dadabhoy.

THE HONOURABLE THE PRESIDENT The original question was

"That this Council recommends to the Governor General in Council that steps be taken to Indianize the staff and establishment of the High Commissioner for India in the United Kingdom."

Since which an amendment has been moved

"That after the word 'taken' the words 'as far as is practicable with economy and efficiency' be inserted, and for the word 'staff' the word 'establishment' be substituted."



The question I have to put is that that amendment be made

The motion was adopted by 26 votes against 8

THE HONOURABLE MR. PHIROZE C. SETHNA Sir, the acceptance of the amendment of my Honourable friend Sir Maneckji Dadabhoy and Government supporting it is a clear indication that the principle underlying my Resolution is worthy of consideration. I opposed Sir Maneckji Dadabhoy's amendment for the reasons I gave. As the Resolution is amended, it will give an opportunity to Government always to take shelter under the words "as far as is compatible with economy and efficiency." However, I am sure that after the discussion which has taken place to-day, the Indianization of the High Commissioner's office will proceed at a faster rate than it has done till now.

The Honourable Mr. Chadwick is perfectly right when he said that I had no intention whatever of turning into the streets the 245 men whom the High Commissioner had taken over from the Secretary of State's office. But what I do complain of is that these men should still be under the authority of the Secretary of State and the High Commissioner should not have the right to remove them, to suspend them or to decide in regard to their pay, promotion, etc. I am glad of the assurance Mr. Chadwick gave towards the end of his speech, that the one point which these 245 men urged, namely, that they should take precedence over others in the matter of the higher appointments, has not been agreed to. This is satisfactory.

The Honourable Mr. Chadwick has told us that the 120 men are not permanently appointed. I wish he had told us how many were permanent and how many were temporary. He has to-day given the total strength to be 368 and of them 30 are Indians. I think I mentioned in my opening speech that I was obliged to my Honourable friend Mr. Chadwick for the information he conveyed to me about two or three months back that the full strength was 365 and that the total number of Indians was 23. It would appear, therefore, that within the last few weeks, the total number has increased by 3, but what is very gratifying to me is that the number of Indians within this short space of time has increased from 23 to 30. Perhaps this is the indirect result of the notice of motion which I gave to this House.

We shall now come to the figures in the other offices, which my Honourable friend gave. He said that after knowing those figures the foundation upon which I built my edifice would certainly collapse. I shouted at the time, "Do not be so sure", and I will give my reasons for that interruption. Mr. Chadwick has told us that in the offices of the High Commissioners of Australia, South Africa and New Zealand, there are respectively 196, 128 and 119 men. Mr. Chadwick has not told us whether these numbers include messengers, packers and others in menial employ. The same were included in the reply given to me by Government more than a year ago and including these people, the total number on that date was 567. I should like to know from my Honourable friend whether these men are included or not in the numbers of the staff employed by the other High Commissioners. I assume they are not. Even

made by other Honourable Members. He told us that there are only 18 Australians, 14 South Africans and 16 New Zealanders and the rest Britishers. But the point of great importance to this House would be to know whether or not these 18, 14 and 16 persons hold the highest positions in the offices of the different High Commissioners or not. That is our contention. The higher appointments, I contend, and I say so after information I have secured myself, or the majority of the higher appointments are filled by men of the countries represented by those respective High Commissioners. Will my Honourable friend say that there are 18 Indians holding the higher posts in the High Commissioner's office?

I am extremely grateful to the Honourable Mr Karandikar for very valuable information which I had lost sight of in the preparation of my speech. He referred to the answer given by the Honourable Mr Corbett to the Right Honourable Srinivasa Sastri. He said that it was given in September, 1924. Perhaps there was a mistake in the year, because the Right Honourable Srinivasa Sastri was not a Member of this House this time last year.

THE HONOURABLE MR R P KARANDIKAR. It is so printed.

THE HONOURABLE MR G A NATESAN. He was here last year.

THE HONOURABLE MR PHIROZE C. SETHNA. I stand corrected. Now, Sir, Mr Corbett distinctly gave the House to understand that there was one Indian official (Mr Bhore), who got a salary of more than £500, only 4 Indians out of 76 on a salary of between £250 and £500 and 9 on salaries between £100 and £250. That is a point I very particularly want to refer to; namely, that the majority of the 23 Indians, or 30, as Mr Chadwick told us the present number is, are filling very minor positions, and that the percentage of the pay—I want to lay stress on this fact—drawn by these 30 Indians cannot be even 3 per cent of the total pay—indeed, much less. Therefore, if my Honourable friend Mr Chadwick quotes the instance of the other High Commissioners, I trust the Government of India will follow the example of the other High Commissioners and see that the higher appointments are filled by Indians and not by others in the office of the High Commissioner for India and that is a point upon which I lay great stress.

I have disposed of the point with regard to the higher cost in employing Indians because I have already referred to this before now. It cannot be a prohibitive cost.

My Honourable friend Mr Chadwick was good enough to refer to my connection with a large insurance office. I am proud of that connection for the good reason that it is an office which does the largest business of any British office throughout the world year after year. My friend further went on to ask if I am appointing Canadians in India and why not. My answer is what the Honourable Sir William Currie referred to. Here we have a say in the matter of the appointments in the High Commissioner's office. In my own office perhaps I am not a free agent and I cannot do as I please, and yet, it will interest my Honourable friend Mr Chadwick to know that whilst I could

employ Indians in those posts, out of deference to the wishes of my employers I do employ as many as a dozen men who have connections with Canada and Great Britain. As the Honourable Sir William Currie very rightly pointed out this is the tax-payer's money which you are paying to the staff of the High Commissioner, and you have got to respect the wishes of the tax-payer.

Mr Chadwick referred to the minor appointments and did not want poor Indians to go to London for those minor appointments. Mr Corbett has replied to this point, and I am again grateful to the Honourable Mr Karandikar for drawing my attention to it. Mr Corbett says that there are Indians available in England itself, who are content with the pay paid to Europeans. This is so. I am sure Mr Chadwick knows from his own experience that there is a large colony of Indians there who will be very glad to get the equivalent of Rs 150 a month. There again, I say that the Government have not made out any case for not appointing Indians to these appointments. In the case of such Indians there will be no question of passage money referred to by my Honourable friend, Mr Chadwick.

Now, Sir, I think I have answered all the points of my Honourable friend, Mr Chadwick.

It is some consolation to me to know from a remark that fell from him that the Government would like an Indian complexion and an Indian atmosphere in the High Commissioner's office. They have not had it so far to any appreciable extent, but I hope as a result of the discussion to-day, no matter however much it has been whittled down by the amendment made by the Honourable Sir Maneckji Dadabhoy, that it will have a desirable effect on the Government of India and consequently on the High Commissioner in London.

THE HONOURABLE MR D T CHADWICK. I do not think the House expects me to speak again. But there are one or two points arising from my Honourable friend's last speech on which I desire to say a few words. In the first place, I am very sorry to disappoint him again. It is true that in the letter I sent him last April when he asked me how many Indians were in the High Commissioner's office I replied 23 or 24 from the information I then had. I worked it out from the latest establishment list I had. The 30 I gave is as a result of my writing to the High Commissioner and asking him to let me know what the latest figure was. Those 7 were not recruited hurriedly as a result of my letter. They had been recruited before. I do not think that the figures I gave for the other High Commissioners' offices included messengers, packers, etc., because in my letter to the High Commissioner I asked him for particulars of staff excluding those, but I will not be dogmatic on the point. It does not affect my point that the staffs of these offices were not wholly Australian, South African, etc.

My next point is that the House will be interested to see that my Honourable friend in his last speech has changed his ground very considerably from his first speech. In fact, he accepted the tenor of Sir Maneckji Dadabhoy's argument, namely, that he was referring to the higher appointments and not to complete Indianization. The House will remember that in his first speech he definitely said that every appointment in future should be given to an Indian.

—every new appointment I think I have made the position of Government clear Its policy is that embodied in my Honourable friend, Sir Maneckji Dadabhoy's amendment, that is the policy which commends itself to Sir Atul Chatterjee, and which I have not the slightest doubt will be followed by successive High Commissioners

THE HONOURABLE THE PRESIDENT      The question is

“That the following Resolution, as amended, be adopted —

    This Council recommends to the Governor General in Council that steps be taken,  
    *as far as is compatible with economy and efficiency,* to Indianize the *higher*  
    staff and establishment of the High Commissioner for India in the United  
    Kingdom ”

The motion was adopted

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*Thursday, 10th September, 1925*

# RESOLUTION *RE* PROTECTION OF THE RIGHTS OF INDIANS IN SOUTH AFRICA.

The HONOURABLE DR SIR DEVA PRASAD SARVADHIKARY (West Bengal Non-Muhammadan) Sir, I beg to move the following as a substantive proposal

"This Council recommends to the Governor General in Council that in connection with the recent anti Indian legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa"

Sir, I owe it to your indulgence and to the courtesy of the Honourable Member in charge of the Department, and to the Honourable Mr Natesan that I am permitted to substitute these words as a substantive proposal in place of the words of which I had given notice originally In speaking to this or any Resolution on this subject, one is weighted down with the sense of serious responsibility and of not a little embarrassment, although speaking in the calm and helpful atmosphere of assured Government support and sympathy One feels, Sir, that not a word must be said on these occasions which may be prejudicial to the interests of those whom we want to help, and whose interests we want to safeguard as far as lies in our power We feel, Sir, that whatever the irritation and sense of annoyance may be, we have to exercise restraint and self-control I think it will be conceded that appeals in this direction have not been disregarded in this House or in the other House in the near past Everyone who had occasion to speak has spoken with this sense of responsibility The responsibility is not ours so much as that of the Government of India, and not only should we avoid giving cause of offence elsewhere, but we owe it to the Government of India, which we know is doing all that is possible to do in this direction, that their hands should be in no way weakened All who know anything of the situation must accord the gratitude we owe to all the Viceroys from Lord Hardinge downwards, Lord Chelmsford, Lord Reading, every one has done all that lay in their power to advance the cause of our countrymen in South Africa and to protect them, as far as possible, with due consideration for prestige And, Sir, when the history of this movement comes to be written, no small place must be assigned—and I say this with gratitude—to the Honourable Sir Narasimha Sarma, who will soon be leaving us, who to our certain knowledge has done all that could possibly be done It is a matter of gratitude and assurance, Sir, that the Honourable Mian Sir Fazl-i-Husain has taken up the burden—this thankless and immense burden—in a proper spirit that I am sure will be helpful

Sir, I do not want to take the House into the various phases of this anti-Indian legislation in the Union Government which has been always a sore subject with us The Honourable Mr Natesan will enter into the details of that legislation and of the situation as affected by it We want to strengthen the hands of the Government of India in a way that will induce the Colonial Office and the Cabinet to afford us—which speaking with the outside knowledge we have not got yet—that assistance and support to,

which we are entitled. The Imperial obligations in the matter, which are large, must be adequately discharged.

Sir, the immediate measure that has called attention to this question is the Bill recently introduced to make provision for the reservation of residential and trading areas in urban areas for certain persons having racial characteristics in common. They were so precipitate in moving that Bill that, according to newspaper reports, which are not always accurate, the mover of the Bill had not yet the text of the Bill before him. And it was with some difficulty that copies of this Bill could be procured in this country for detailed examination. That Bill, among other things, aims at reducing the Indian population in South Africa to an irreducible minimum. And what is that Indian population, Sir? Near upon 1½ lakhs of whom more than 60 per cent have been born in South Africa. Whether they should be regarded as South Africans first and Indians afterwards, and whether their interests should not be safeguarded by the Colonial Office more than by our Government and the Secretary of State for India is a question which might be raised but leaving that constitutional question aside, we have the fact that these 1½ lakhs of people did not go there of their own accord voluntarily, but their ancestors went there to start as indentured labourers, who manured the soil with the dust of their bones. They finished their work and settled down, and it is their families now who are to be interfered with by the proposed Bill. Whether they can be repatriated in the way proposed, or whether the pressure that is proposed to be brought to bear upon them is just, though it may be lawful, are questions that will probably not affect the issue. So far as the South African people are concerned, they are determined, by any means open to them, to have that number reduced to a minimum. Those who have had opportunities of conferring with representatives of South African opinion are fully persuaded that there is very little left for negotiations to achieve. We who speak with outside knowledge are therefore in a more or less despondent frame of mind, and so are, we believe, the Indians in South Africa themselves. But Sir Government, which have closer information, are not yet of that frame of mind and it is believed that the time for negotiations and representations has not yet passed. That being so, although both Houses here adopted some time ago a Bill to take needful action by way of reciprocity it would be premature, it would be undesirable and unfortunate to raise yet the question of reciprocity or retaliation as we may call it. What can be done in that direction later on is another matter. But the door for negotiations and representations being still open, we ought to do all we can to assist the Government and strengthen their hands and endeavour through representations and negotiations to bring about a better state of things, which it is believed will be possible to bring about in the not unlikely event of a change in the Government of South Africa.

Sir, the question there cannot be one of numbers. As I have said the number of Indians is only 1½ lakhs in that vast country. There are six millions of coloured people who do not seem to trouble the South African Government or the South African people. Therefore it cannot be a question of numbers. The House will remember that in view of the troubles that arose in 1911, Government decided no longer to encourage or allow emigration to South Africa, and the understanding arrived at generally known

Gandhi-Smuts Pact, provided for no more than 18 people for all the districts and provinces of South Africa from India a year. That cannot be a menace to the South African people. In the same way, Sir, it cannot be the political difficulty that the South African people are exercised about, because even if every one of the Indians had all the franchise and municipal privileges that we would like to see them have, that would not make an appreciable impression on the situation. And, Sir, if the facts of which we have heard are to be credited, I am not sure that those opportunities would be used by the Indian population in any manner prejudicial to the interests that the South Africans naturally value. In a place called, I believe, Stanger, where the Indians have a preponderating majority in the municipal vote, not long ago, in spite of all the troubles and difficulties that they have been experiencing, they returned an Englishman as their representative. It would appear therefore that they are not animated by any adverse ideas with regard to the political or municipal situation. I am informed on very credible authority that in a border province, where there are no more than a hundred Indian people, the Mayor publicly declared that he had never known a more law-abiding, genteel and gentle set of people than the Indians. I do not know whether that testimony would be forthcoming if the number was appreciably larger than a hundred. Sir, I heard from Mrs Sarojini Naidu, who was here the other day, that at a banquet given in her honour, there were 900 covers laid and as many as 400 white people joined the remaining 500 people. Therefore it cannot be political or social, so far as those particular grades of society are concerned from which that 900 came. I am told, Sir, that there is no colour bar at the Bar, nor is there any moaning at the Bar with the help of the cheap drink they pass out.

Is it then an economic question? One hears that it is not the labourer so much as the tradesman that the South African objects to. One hears the other story also, that it is not the trader so much as the labourer that he is really anxious about. If the latter were the case, one would have expected that minimum wages legislation would have been undertaken, which would have made it impossible for the Indian labourer to indulge in wage-cutting. I am sure the Indians, even under those conditions of handicap, would be able to hold their own.

What is it then that is really troubling the South Africans? I am not sure that we have always the right version of things. There are always two sides to a question. We have seen with regard to Kenya that some of those who were urging upon us to take steps that bordered on the extreme were in the end prepared to accept seats on the Legislative Council and the Executive Council. About this I asked a question a few days ago in this Council, the Department however said they had not the information yet.

Therefore, Sir, it is of the first importance to begin with to get the right facts, the real condition of things from the point of view of the majority of our countrymen in order that in any course of action on which we may embark we may not, in attempting to help them, really hurt them. From that point of view, I thought a revision of the wording of my original proposal was necessary and I therefore place it before the House in its amended form. If that is

accepted, together with the amendments that will be proposed presently, as complete and concrete a proposal as is possible for this House to present to the Government will have been made, and on that the Government of India through the Secretary of State, and indirectly through the Colonial Office, can bring pressure to bear upon the Cabinet and may yet be able to achieve some results, about which many of us are becoming despondent.

In those circumstances, we thought that we should bring up the matter before this House before it disperses. The other House has also taken an equally strong view upon the matter, and we who come in contact with public opinion outside know with what intense feelings, in spite of the seeming smallness of the problem many thousands of miles away from here, this matter is regarded.

We are taking this step on the eve of a discussion on grave constitutional questions. It has often been said with reference to our demands that we who demand rights for our countrymen abroad have yet to think about ourselves. That is a situation from which there is no getting away, but that is a situation about which we are trying to achieve improvements which sooner or later will come. That however ought not to be allowed to cloud the issue, where such rights have come to all citizens. Those who went away from their country many years ago upon representations that for a time were adhered to but that were gradually departed from as time went on, are our own flesh and blood, our own kith and kin. We cannot sit down with folded arms when all these troubles and difficulties are threatening their fortunes in the country of their adoption.

I shall not say any more. I confidently hope, Sir, that Government, which are taking the same view as us right through the trouble, will be further strengthened by what this House is going to say and that they will be able to achieve results by negotiations and representations, the door for which we are assured to be informed is not closed yet.

THE HONOURABLE MR. G. A. NATESAN (Madras Nominated Non-official). Sir, I do not think it is necessary that the time of this House should be taken up by a detailed account of the story of the sufferings of our countrymen in South Africa. In March 1924 I had the honour of drawing the attention of Government and this Council to the legislation which was then impending in the South African Union called the Class Areas Bill, and I am very glad to say that the unanimous desire of this House that the Government of India should take effective steps to prevent that legislation from being given effect was accepted by the Government of India, and I am sure they have made emphatic protest in that direction giving expression to what was the opinion of the public with regard to the question. That Bill fortunately was dropped, not because the South African Union Government was willing to change its policy in the matter, but because the Government which introduced the Bill had a defeat which it certainly deserved, if for nothing else, for introducing that measure, and it went out of office. We are now faced with a Bill of a similar character but with provisions more drastic in their effect. My Honourable friend Sir Deva Prasad Sarvadhikary, who moved the Resolution, desired that I should state some facts in regard to the provisions of the Bill which is now impending and which we are now requesting the Government of India to examine very closely and try their very best to prevent from becoming law in the South African Union.



So, there is a great deal of literature luckily made available to us not only through the courtesy of the Department which is in charge of this Resolution, but we have also the advantage of having certain communications which have come to us from not only the Union Government of South Africa but also from the expression of public opinion as prevailing in South Africa through certain representative associations which have cabled to us about some of these matters. I find, Sir, that the immediate effect of this new Anti-Asiatic Exclusion Bill, so far as the Indians there are concerned, will be that it provides for allocating residential and trading areas within which only Indians may buy and lease property. In rural districts Indians are confined to 30 miles from the coast line wherein the areas may be defined. The result will be that thousands of Indian business firms must cease on the expiry of the present leases. It is compulsory segregation and deliberate deprivation of Indians' property. The ultimate aim is apparently repatriation with confiscation. The right of *bona fide* Indians to enter the Union is seriously jeopardised. Many provisions in the Bill will enable Indians being declared prohibited immigrants. The domicile rights will be practically forfeited. Mere absence of three years causes forfeiture. The wives and children of domiciled Indians cannot enter the Union after five years from August 1925. Thousands of ex-indentured Indians are now for thirty years there and their descendants may be declared prohibited immigrants and cannot claim domicile. A South African born Indian domiciled in one province must return to the province of his birth and there also into segregated areas. Indians born here could also be declared prohibited immigrants unsuitable to the requirements of the Union. Such prohibited Indians will lose all property and vested rights in the Union and be driven away.

This is, I think, a very fair and temperate criticism of the provisions of this Bill, and the criticism is made by Mr Ahmed Bayat, President of the Natal Indian Congress, who has sent a cable in these terms to a number of public bodies, politicians and legislators in India, and also, I understand, to the Government of India. A short but telling comment upon the provisions of this Bill has been made by Mr Gandhi and he remarks as follows:

"It reduces the position of the resident Indian population to such an extent that without the Union Government having to pay any compensation whatsoever there will be no Indian settlers in South Africa within a few years' time if the provisions of the Bill are applied with enough stringency. There will be powers given to the administration to freeze out every Indian, no matter what stake he may have in the land of his adoption and even of his birth, for the Bill makes no distinction between Indians born in South Africa and domiciled."

"The safeguards provided by the Bill are all illusory and can be rendered perfectly nugatory. The Bill is an indication of the determination of the Union Government to starve the Indians out of South Africa."

I do not think it is necessary for me to give this House any further details about this measure. The contention of our countrymen there, and I am very glad to state, the contention also of the Government of India which has taken up the case of the people there, is that this is a direct violation of the Smuts-Gandhi Agreement. Honourable Members of this House are aware that as a result of the compromise entered into by General Smuts, who was Prime Minister then and Mr Gandhi, on behalf of Indians, it was understood that though Mr Gandhi, on behalf of the Indians, gave up the right of theoretical equality with

the people there and though also Mr Gandhi on behalf of the Indians agreed to give up the right of unrestricted immigration, it was understood, it was put on record, it was also subsequently ratified by General Smuts and his Secretary, that the rights of people already there, that is existing and vested rights, should not be interfered with and no fresh legislation which was in any way calculated to take away the rights of people there ought to be undertaken

I very much regret to say that not only has the recent anti-Indian legislation to which reference has been made by my Honourable friend, Sir Deva Prasad Sarvadhikary, been adopted in Natal, but this Bill, the worst of all, which has been recently introduced, is a direct violation of the Smuts-Gandhi agreement and is a challenge to the 160,000 of our people who are domiciled in South Africa. Referring to the Smuts-Gandhi Agreement Mr Gandhi said

"The essence of the arrangement was that an assurance should be given that existing laws especially affecting Indians will be administered justly and with due regard to vested interests"

On behalf of the South African Union Government Mr Gorges, the Minister of the Interior, gave the following assurance

"With regard to the administration of existing laws the Minister desires me to say that it always has been, and will continue to be, the desire of the Government to see that they are administered in a just manner and with due regard to vested rights."

It was again stated that in accordance with that promise no further anti-Asiatic legislation would be passed by the Union Government. The understanding clearly was that the legal position of Indians would be gradually improved and that the then existing anti-Asiatic legislation would in time to come be repealed. You will recollect that the Government of India sent Sir Benjamin Robertson on the Asiatic Inquiry Commission, and Sir Benjamin Robertson expressed his views very clearly and definitely. He publicly stated in that document

"Compulsory segregation in the eyes of many of its supporters is merely a means to an end. The ultimate aim is to force the Indians, and more especially the better class of Indians, to leave the country"

It is important in this connection to remember another observation made by Sir Benjamin Robertson

"An undertaking to administer existing laws in a just manner is meaningless if the rights which Indians are entitled to exercise under those laws can be restricted at will by fresh legislation."

Sir, the Bill which is now before the South African Union Parliament is a direct violation of this agreement, and it makes the promise given by the South African Union Government not to interfere by new legislation with the existing and vested rights there meaningless. It is against this attempt that we request the Government of India to take effective steps to safeguard the interests of our people there. My Honourable friend, Sir Deva Prasad Sarvadhikary, very rightly pointed out that this House should not ask the Government of India to do anything which in the least is likely to jeopardise the interests of Indians in South Africa. It must be remembered that the 160,000 Indians there are domiciled Indians, most of them, or at least their parents, went out there at the request of the Government

of Natal They were induced or rather encouraged by the Indian Government here to go there, and therefore there is a great responsibility on our part and on the part of the Government of India to see that whatever steps may now be taken, or may have to be taken hereafter, due regard is paid to the protection of the rights and vested interests of Indians domiciled in South Africa I am therefore anxious that nobody here or elsewhere should do anything or advocate any measure which is likely to defeat the very object we have in view I find from a cable received from representative Indians in South Africa that a mass meeting of Natal Indians strongly protested against the Asiatic Bill, what is more important, the cable says —

“The Indian case will be presented to the Union Cabinet at the end of September If unsuccessful a deputation will leave for India and England to pray for support, otherwise it will mean extermination”

This clearly means, Sir, that responsible Indians in South Africa propose at any rate for the present to adopt the only step that is open to them, the perfectly legitimate and constitutional step of presenting their case to the Union Government, and if that attempt fails then naturally they turn to the Government of their mother country, that is, the Government of India here Whatever steps we may take, therefore, and whatever methods we request the Government to adopt, we must follow the policy which has been communicated in the telegram which I have already read

We must remember one other matter There are some here who, I find, speak without a correct knowledge and appreciation of the facts of the case They say, “Let us agree to repatriation” I venture to submit to the Government of India—and I submit that I am reflecting the opinion of those who have paid some attention to this question—that they should not agree to this proposal at all I wonder if people who talk like this realise what the situation exactly means As has been said more than once, there are Indians born in South Africa to whom India is nothing more than a mere geographical expression, they have been born and bred up there and have lived all their lives there—lives which though they might not have come up to the highest European standards are certainly to some extent of a higher standard than they would have lived in India They are pursuing peaceful avocations, they are traders and they are competitors with the white traders &c It seems to me it will be suicidal to the best interests of these people if we were light-heartedly to talk of their repatriation to India Then there is the talk of retaliation That is a matter which has to be very carefully gone into, and no responsible Indian politician could talk of retaliation now without making a very careful examination of all the facts of the case I do not say that we should not think of retaliation at all, but any wise man, any wise administrator, would like to have all possible weapons with him and he will not talk at once of using this or that unless his judgment tells him that at a certain stage he should use a certain weapon keeping other weapons in hand at the same time The very fact that the Central Legislature, with the authority of the Government of India, have passed a Reciprocity Bill shows that if the time should come for the Government of India to adopt that attitude they are willing to do so I therefore think that under the present circumstances the best policy is the one that has been suggested by the Indians in the Union, namely, that they would first

appeal to the Union Government, and if that appeal failed they would come over here. I do not wish to say anything further on this matter, except that we ought to be very careful in dealing with this matter and not express any hasty opinion on it.

I also think that it is absolutely necessary that the Government of India should give all possible facilities to the Indian deputation which might shortly come over here. The Government would be able to ascertain accurately from the people who come here what exactly is the situation, but at the same time I venture to think that the Government of India should not be content to ascertain only the opinions of this Indian deputation, I think they should also take steps to see if it is not possible for them to depute some people from here on behalf of the Government of India, official or non-official, to see whether they can not persuade the Union Government to have our case at least heard.

Sir, it is an anomaly, almost an irony of circumstance, that the Indian Government, which is at one with the people of India in this matter, should have to appeal for information to the Union Government who are trying to oppress our people. I think it is essential in the interests of the people, whose interests we are all most anxious to safeguard, that we should now try and create an agency, if not for all time, at least for this occasion—some instrument, some method of ascertaining exactly the situation of our people there. I do hope, whatever may be the predilections and previous opinions of General Smuts and the Union Government in not agreeing to the idea of our sending a representative that the Government of India will send some one there and try by all possible methods of diplomacy and constitutional weapons open to them to see and impress upon the Union Government the essential unfairness and injustice of the attitude which that Government is adopting in trying to deprive 160,000 Indians, subjects of His Majesty, of rights and vested interests which had been promised and safeguarded to them. It is but fair that the Government of India should be allowed to depute one or two representatives of their own to go and interview the South African Government so as to get at all the facts and ascertain the possible effects of this measure and also to see the various classes and communities who are there now and who will be affected by this measure. I do hope, therefore, that this will be successful.

There are some people, I am sorry to say, one or two over here, who gave expression to the sentiment that the situation was hopeless, and that there was no use for the Government of India to attempt to try to set aside this hopeless legislation, as we cannot get justice from the South African Government. Sir, I am willing to say that if one considers the past proceedings of the South African Government the situation may be hopeless, but so long as other measures are yet to be adopted, I will not say the situation is hopeless. Indeed, I am surprised that this idea of hopelessness should ever have entered into the minds of people who have always said that nothing was hopeless. In my opinion the situation may not be hopeful, but I certainly do not think it is hopeless. There are some people who say that we do not believe in the pronouncements of statesmen, particularly South African statesmen, but I venture to think for reasons already given, and in the face of the express pronouncements of the Minister of the Interior (Dr. Malan), who was in charge

of the Asiatic Bill, that the situation is not so hopeless as it is stated by some Dr Malan has said

"The first point was that the introduction of this Bill must not be taken as closing the door to any negotiations or communications which might pass between the Union Government and the Government of India in regard to the Indian question. The Union Government had been approached by the Government of India with a view to holding a round table conference on the treatment of Indians in South Africa. These negotiations had not yet closed, and they had taken a very definite course."

If I had anything to do with this question I would certainly not say that I do not believe this statement. I would accept this statement and see that steps are taken to compel the Minister who has made the proposal to make it good. And, Sir, I also feel that something very unusual happened in one part of South Africa which seems to show that the better minds of the white people do not approve of this drastic method of Asiatic exclusion. I am very glad to be able to read to the House an account of a recent meeting of the Durban Town Council where the following Resolution was adopted

"That the Government of the Union of South Africa be informed that, in the opinion of the Durban Town Council, the only true method of solving the Asiatic question, in so far as it relates to this country, and particularly Natal, lies in the direction of a round-table conference between representatives of the Union, Britain and India, further, that the Union Government and the Union Parliament be asked to take such steps as may be necessary for convening such a conference in this country without delay."

I regard this Resolution as indicating that it expresses the better mind of at least some of the white people. I have already read the pronouncement made in the South African Parliament by Dr Malan and I appeal to this House to see that they strengthen the hands of the Government of India to insist on bringing about this round-table Conference. I am sure that the Government of India will do everything in their power to make the Union Government agree to receive a deputation from India. I am also sure that the Government of India will be careful to see that they send men who will be truly representative of India, who will try all possible means of putting our case before the South African Parliament.

THE HONOURABLE THE PRESIDENT The Honourable Member has exceeded his time limit

THE HONOURABLE MR G A NATESAN I do not, therefore, think that we should despair. Even if this new legislation became law we should ask His Majesty's Government to disallow this legislation. On a previous occasion an attempt was made in that direction and let us hope that the combined effort of the people of this country in regard to this great question and the sympathetic manner in which the Government of India have been handling it, will result in obtaining justice to our countrymen in South Africa. The Government of India will thus protect not only the interests of the people of this country but also the fair name of the British Empire.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (West Punjab Muhammadan) When I get up, Sir, I do not get up to make an oration because I am perhaps not capable enough to do so, but I want to speak of practical politics. There was once a man, who could talk and another man who could fight, and they began to quarrel. One man began to abuse the other and the other man

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began to beat him. When the second man was tired of beating the other man said to him "if you beat me again I will see what I can do." Then he started again beating him till he left him senseless. When he went home he said "No doubt he gave me a good beating but I also bombarded him with abuse!" In the same way our talking so much does not do any good. On the floor of this House this matter has come up so many times and the House knows that my remarks have been very bitter if not the bitterest. Whenever we have brought forward this Resolution, Government have always been ready to do what they can. But what can the Government do? And if they have not been able to do much hitherto, there is no prospect of their doing more in the future. I think the whole thing comes to this. Instead of being bitter in talk we should look at it from this point of view, *i.e.*, what can be done in the matter? After all, it is their house, it is their country (*An Honourable Member* "No!") Generally the house belongs to those who are stronger, and they do not care to listen to all we say, all our Resolutions because they can do what they like in their own house. All we can do is to see what we can do here in India. And to this end I think various people have tried their best in talking matters over and they have even passed a law by which we can bring pressure to bear upon them (*An Honourable Member* "Retaliation"). It is doing more or less the same thing to them that they have done to us. Now perhaps the men who come to India from South Africa are not more than 150 or 200. If we kick out these 150 or 200 men from India, the next day they will send whole shiploads of Indians back to us. So that is of no benefit to us. The next thing is perhaps they send coal to India. If we do not buy their coal perhaps we may do some little damage to them, but that too is doubtful because some specialists say even that is not of much use, so we cannot even do that. Then the next thing that remains to us is instead of telling these people "We will back you up" when we cannot do anything and only give them false hopes. I think the best thing is to tell them "If you consider you are not being treated well there you had better come back to us," and I think we ought to ask our Government that as they sent all these men abroad they ought to provide for them by bringing them back to this country. I do not think that is very difficult when there are thousands of bighas of land lying fallow which are now to be irrigated. I do not say the Government should give them all the money they want but give them an honourable place and sufficient to eat. If they say "No, we do not want to go back to India, we get lots of money here", then we will say, in the words of the proverb which means that the word 'Tama', *i.e.*, greed is composed of three letters which are all devoid of any dot. If they choose to remain there dishonoured, let them do so and let not India try to do anything further for them.

Sir, I have the honour of India at heart perhaps more than many and for this I say, Sir, it is useless to go and ask them with folded hands "Please do this and please favour us." Nobody cares a bit about this. Our Punjabi saying has it if a man is strong enough and he comes and begs a thing of a man, if he does not do the thing he asks for, the next thing will be that his legs will be on his neck. In these circumstances the only thing I think we can do is to ask Britain and His Majesty's Government that

when we are a portion of the Empire, of which we are all members, it is their business to keep the balance even, because if nothing is done then the only thing we can do is either to keep quiet or to ask His Majesty's Government that for the sake of practice, for the sake of manoeuvres, they should allow both their Dominions to settle mutually their differences by the force of arms. In that way we will both learn to respect each other and I am sure that if Government allow our illustrious present Commander-in-Chief with the Indian Army, it will not take much time—as it did the last time—to bring the Union to its senses. I think he can do that in a quarter of the last time because I know him so well. That of course is the last resort. But if we cannot do that, it is much better not to go in vain to ask like beggars for favours when we have no motive power at our back but simply tell our people that there we are helpless and we can only do this for them, to bring them back to their own homeland, and that is all.

**THE HONOURABLE THE PRESIDENT** Before I call on the Honourable Mr. Ramadas Pantulu, who has an amendment also on the paper. I think it would be better to take the decision of the Council on the amendment of Mr. Karandikar. The question is that the following words be added to the original Resolution —

“ With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Preservation and Immigration and Registration (Further Provision) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges ”

The motion was adopted.

**THE HONOURABLE MR. V. RAMADAS PANTULU** (Madras Non-Muhammadan) Sir, with your leave I beg to move another amendment to the Resolution moved by the Honourable Sir Deva Prasad Sarvadhikary, that is, to add the following words to the Resolution —

“ and to ascertain the condition and the views of the Indians in South Africa ”

Sir, I was hard put to frame an amendment to the Resolution. I put down several on the paper. At last I sent in one of which the Honourable Emigration Member finally approved. It struck me that the most sensible thing to do was to ask that the Council might be permitted to pray to God to grant wisdom and sanity to the South African Government and strength to the South African Indians to resist their oppressors. The situation seems to me to be as bad as it can be. However, as we are all satisfied that the Government of India are pledged to do their best for the Indians in South Africa, we may still hope that some good will come out of our exertions.

I shall not enter into the history of this South African struggle earlier than 1913. Up to 1913, up to the date of the passing of Act XXII of 1913, it was a series of humiliations to the Indians, and no effort made either by this Government or by the people proved of any avail. Therefore, on the 1st November, 1913, Mr. Gandhi, who was there then thought that he ought to inaugurate a movement of passive resistance in order to impress the South African Government with the determination of the people to achieve freedom. On the 1st November 1913 he took 2,200 South African Indians

from the Natal Coalfields and marched them to Transvaal across the border in violation of the immigration law. From that time the real struggle ensued, and it came to an end quickly, because by the end of 1914 something was done to give immediate relief to the South African Indians in some matters. I shall mention those matters very briefly. Mr Gandhi put before the South African Government four definite grievances: the *first* was the restriction on inter-provincial movements—movements from one province to another in the Union. The *second* was the ban put upon marriages celebrated under Hindu and Muhammadan law. The *third* was the imposition of a tax of £3 per head upon labourers as soon as the term of their indenture was over: this was subsequently extended in 1915 even to children. The *fourth* was the unjust administration of the existing laws, specially the Indian Immigration Act, XXII of 1913. There was an honourable settlement in 1914, when the Indian Relief Act was passed which in a way satisfactorily solved the first three grievances. With regard to the fourth, the Union Government assured Mr Gandhi that they would do nothing to administer existing laws unjustly and that they would endeavour to see that they were always justly administered. Mr Gandhi wrote back in reply expressing his satisfaction at the assurance given to him and this correspondence between him and General Smuts is what is known as the famous Smuts-Gandhi agreement. I mention this fact particularly because the Union Government by entering into this agreement has made itself morally and legally responsible for the continued existence of Indians in South Africa. If they had told Mr Gandhi that they did not want Indians any more and that their idea was to extirpate the Indians and to complete the process of purification and disinfection of the South African Colony by driving out every Indian, it would have been a different matter. The struggle would have been continued to a finish or the Indians would have left South Africa once for all. The Union Government having agreed to this arrangement, they were bound to carry it out in its entirety, and I charge the South African Government with gross breach of faith and a gross violation of the pledge they gave by the Smuts-Gandhi agreement. After that they went on piling up *anti*-Indian legislation which was absolutely contrary to the spirit of the undertaking they had given not to administer their laws unjustly. The undertaking not to administer existing laws unjustly, certainly involves an undertaking not to enact more unjust laws. Nevertheless what we see is that as soon as the Great War was over they have enacted not less than six Acts which are all absolutely *anti*-Indian. In 1919, Sir, they passed Act XXXVII of 1919, which prevented the acquisition of new leases in proclaimed areas and the acquisition of properties outside those areas. In 1922-23, they passed no less than three Acts—the Durban Land Alienation Ordinance, the Borough and Township Land Ordinance and the Natal Retail Dealers Licensing Ordinance. The purport of all these Ordinances is to restrict the rights of Indians both in regard to acquisition of property and franchise in townships and boroughs. I have no time to go into those details, but they are all very stringent laws. In 1924 they passed the Natal Boroughs Ordinance—XIX of 1924—which prevents the acquisition of future franchise in boroughs, so that Indians may lose whatever rights they had of electing members to local bodies and of getting anything done for them. In 1925, there was the “Natal Townships Ordinance” which was



to the same effect as the previous one—only it related to franchise in townships. Sir, since then there are a number of enactments which are on the legislative anvil of the South African Parliament, all intended to further restrict Indian rights there. The Natal Townships Ordinance of 1925 is now sought to be supplemented by another draft which is now pending, in which even the existing franchise is sought to be taken away, whereas the laws of 1924 only aimed at the acquisition of future franchise. Then, Sir, there is the Bill to amend the South African Mines and Works Act, which prohibits the grant of a license to a man who is engaged in trade if his trade requires the use of machinery—so as to prevent him from pursuing any trade which is lucrative. Finally, Sir, we have got this Asiatic Act which most of you may have read and which is very drastic. It consists of three parts. The *first part* deals with the restriction of class areas both with regard to trade and residence and also the acquisition of land except in certain areas. That, Sir, is a very stringent measure. The number of people who are engaged in trade in South Africa is as follows: according to the census figures I find that nearly 12,374 are engaged in trades, 7,361 in industries and 3,469 are engaged in transport and communications, while as many as 22,000 are engaged in agriculture. Therefore this hits a very large proportion of the population now resident in South Africa. The *second portion* of it which deals with the immigration law has got some very curious and stringent provisions. I shall just quote one or two of those provisions in order that you may realise the gravity of the measure. Hitherto people could go from one province to another freely. Now in order to go to the Cape of Good Hope or Natal from a neighbouring province you have got to satisfy a literary test, otherwise you cannot get in. Another clause in Chapter II deals with the children of persons domiciled in the Union. If they are born outside the Union they cannot get into the Union if they are over sixteen years of age. Now, the number of women in South Africa is something like 65,000. If these women are sent to India for their confinement and if the child is born there, the child should go back to his father and mother in South Africa before he is sixteen years of age, otherwise the child is prohibited from going there.

Another clause says that on economic grounds all children born outside the Union will be treated as prohibited immigrants. A new clause provides that the children born in the Union itself may be treated as prohibited immigrants in provinces other than that of their birth. A proviso to clause 17 states that after a certain time the wife or a child of an Indian resident in the Union may not enter the Union. There is thus a limitation to a wife asserting her right to live with her husband or child. There is another clause which tries to kill the very domicile of Indians by three years' absence. If a man resides three years outside the Union he loses his domicile.

There are many other provisions which I do not want to read. These are so very drastic and therefore I have moved this amendment in order to enable the Government of India by such methods as they think fit to place before the South African Government and the Home Government the condition of Indians in South Africa. I claim that the present attitude of the South African Government is a gross abuse of the power of self-government bestowed on them by the Union Act of 1909. In 1899 one of the causes of

the war was said to be the ill-treatment of Indians in South Africa. If that was so, I do not understand how the British Government can to-day tolerate such action.

I do not know, whether it is true as my knowledge of Eugenics is limited, but it said that if people are segregated and made to live in separate locations they develop fecundity. So the action of the South African Government tends to increase the Indian population and frustrate their object. Moreover such action tends to antagonise the oppressed people and make them more and more hostile. Such people will ever be a growing danger to the South African Government.

I cannot, while thanking the Government of India for all they have done, acquit the Indian Government and the Government at Home of having failed to discharge their responsibility in this matter. If the Government of India had taken steps to make India free by granting her self-government, this oppression would not have come about. The mere fact that we are slaves and have to depend upon a foreign bureaucracy makes the South African Government bold enough to promulgate such measures against Indians. The Cabinet at Home do not do their duty by us. It is now open to the South African Governor General under section 64 of the South African Act to disallow *anti*-Indian legislation and to advise His Majesty the King not to assent to such legislation or to veto such legislation. All these things were open to them, but they have done nothing, lest they offend the susceptibilities of the white population. The attitude which Mr Chamberlain took in 1922 on the Kenya question showed the indifference of the Imperial Government to Indian interests. I cannot therefore acquit the English Government of all blame in this matter. When Indians were oppressed in South Africa, it was the duty of the British Government to put a stop to it. I beg therefore to move that the following words be added to the Resolution

“and to ascertain the condition and the views of the Indians in South Africa.”

THE HONOURABLE MR K C ROY (Bengal Nominated Non-Official) Sir, my friend, the Honourable Mr Ramadas Pantulu has pointedly called attention to the responsibility of His Majesty's Government in this matter, and it is on this I should like to say a word or two. The House will recollect that Mr Thomas before the Labour Government went out of office visited South Africa and made a notable pronouncement at Pietermaritzburg. There he drew pointed attention to the Imperial responsibility and suggested a conference at which His Majesty's Government, the Government of India and the Commonwealth Government should be equally represented. Since then Mr Thomas has gone out of office,—a fact which I greatly deplore. Mr Amery, who succeeded him is an Indian by birth, he is fully acquainted with the South African conditions. He has not repudiated Mr Thomas's suggestion for a round table conference, and I therefore take it, Sir, that the British Government is committed to the idea of having such a conference in order to safeguard and protect the interests of Indians in South Africa. Then again, Sir, there is the Secretary of State for India, who was the Lord Chancellor. We have seen no visible or tangible sign of his sympathy in our troubles in Africa. Then, there is our Viceroy, His Excellency Lord Reading, whose consistent and persistent support we know of

and fully appreciate These are the four gentlemen, statesmen of great repute, who are primarily responsible for the solution of this question It is not this House nor the Government of India who are so much responsible as His Majesty's Government I submit, Sir, that there is a clear case for intervention, and it is time that His Majesty's Government should seriously take into consideration the grievances of Indians in South Africa I am here to support a round table conference not because it emanated from this House, nor because it has received support from Indians, but because it was a suggestion thrown out by Mr Thomas I should like to add one word We fully appreciate the difficulties of the Union Government and we want them fully to appreciate ours It is precisely on this account that we want a round table conference which may help us out of the difficulty in solving the Indian problems The problem will not be solved in the interests of India alone nor in the interests of the Commonwealth of South Africa alone, but in the bigger interests of the British Empire to which we all belong I therefore support this Resolution

THE HONOURABLE MIAN SIR FAZL-I-HUSAIN (Education, Health and Lands Member) Sir, the problem of Indians in South Africa is a very important, a very difficult, and an extremely delicate one It is not my intention to state in detail the various measures passed or orders issued by the South African Assembly or the South African Government during the last six or seven years, nor is it my intention to state in detail the various steps taken by the Government of India in connection with those measures or those orders That would serve no useful purpose I will take up this problem from more or less its recent stage It was on the 20th January 1925 that His Excellency the Viceroy, when addressing the Honourable Members of this House and of the Assembly, referred to the fact that the Governor General of the Union Government had given his assent to the Natal Boroughs Bills in spite of the representations that the Government of India had made, and proceeded to say —

"Every endeavour will be made to discover a remedy, but in view of the powers of Dominion Governments in internal and domestic affairs, the position is one of delicacy, and a solution will not be easy to find"

Well, Sir, it is no use pretending that with a little ingenuity it is possible to solve this extremely difficult problem And when one sees measure after measure adopted to the prejudice of the Indians in South Africa, in spite of the efforts that the Government of India have been able to put forward on their behalf, I venture to think that there is justification for Indians in India and Indians in South Africa to feel that the problem is altogether hopeless And yet the proverbial patience of the Orient ought to come to our aid There are not many rays of hope, but there are still, I feel, a few faint ones The Honourable Mr Natesan referred to the speech of Dr Malan, the Minister for the Interior, who introduced the latest measure on the subject only last July in the Union Assembly He stated definitely that the door had not been closed He stated to the Assembly that the Government of India had been pressing for a round table conference, and he also stated quite definitely that the proposals of the Government of India had not been turned down or rejected by the South African Government Therefore, when I say that I am not hopeful and at the same time that I am not altogether hopeless, I have justification for making that statement I

recognise, Sir, that when we were negotiating for a round-table conference, this Areas Reservation and Immigration and Registration (Further Provision) Bill really came like a bombshell on the Indian public. It is true that it created a strong feeling of resentment all over the country, and I am glad to be in a position to say that that outburst of resentment was led by the English press, edited by Englishmen. It does great credit to India's cause in this struggle that all Indians, including Europeans in India, are united in this matter. And, Sir, the Honourable Members of this House will recollect that it was, I believe, on the 8th of January 1925 that a remarkably representative and influential deputation of Indians and Europeans waited upon His Excellency the Viceroy in Delhi, and His Excellency, while recognising the remarkably influential character of that deputation, and paying a tribute to their moderation, stated —

“ At this moment when the action now taken in Natal, following on other measures taken or proposed in Natal or elsewhere, suggests that the position of Indians in South Africa has reached a crisis, I should be unresponsive indeed if I did not fully appreciate the sentiment which stirs the country and is well expressed by this remarkable deputation, exemplifying in a striking manner the co-operation of Indians and Europeans of varying shades of opinion and varying interests, firm in the faith of the future of India within the Empire. I am deeply concerned at the turn of events and at the possible reaction on Imperial relationships ”

Therefore, Sir, it is for the benefit of those Members of this House, who have assumed a more or less desponding tone, or a tone of a little bitterness at the possible inaction of the Home Government, that I felt it necessary to remind them of the observations of His Excellency the Viceroy, conclusively establishing how well he had appreciated the Indian point of view and the Imperial point of view in this struggle. And while holding out some hope, I



days ago a telegram was sent to the President of the Indian Congress there that in case their deputation materialises the Government of India will be very pleased to see it. We ourselves are contemplating what further steps can be taken to ascertain the condition and the views of the Indians in South Africa, to find out the conditions under which they are living and to study the position with a view, as I said before, to render assistance to them and to the Government under which they are living. I have therefore no difficulty whatsoever in accepting the recommendations which Honourable Members of this House have made in speeches of studied moderation. As I have already said, Sir, nothing that can be done to help the cause of Indians in South Africa will be left undone. You can, Sir, and the House can, put implicit trust in the desire of the Government of India to do all they can to safeguard the interests of Indians in South Africa. We must not, we cannot, fight out this battle on the ordinary political plane. We ought to appeal to the South African authorities not in a spirit of strife, not in a spirit of begging or humility either, we must appeal to them in the interests of their own country. Our point is not that we want certain privileges, certain licenses for the Indians there. No, we want them to treat the people under them with the sole object of so acting as to serve the best interests of the country as a whole. Nay, we may take the discussion on to a higher plane still and appeal to them, to the Empire and to the civilised world not only on the political plane, not only on the plane of statesmanlike diplomatic discussion, but on the still higher plane and in the name of justice and fair play, and when we fight on that plane, our cause being a righteous one, I do think there is some justification for the faint hope of a fair settlement.

THE HONOURABLE THE PRESIDENT      The question is —

“That the following words be added to the Resolution as amended

“and to ascertain the condition and the views of the Indians in South Africa.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT      The Resolution then before the House is the Resolution moved by the Honourable Sir Deva Prasad Sarvadhi-kary with the addition made on the motion of the Honourable Mr Karandikar and with the further addition made on the motion of the Honourable Mr Ramadas Pantulu. The question is —

“That the Resolution, as amended, be adopted, namely

This Council recommends to the Governor General in Council that in connection with the recent anti-Indian legislation and with the Bill now impending before the South African Parliament immediate steps should be taken to secure and safeguard the rights of Indians in South Africa. *With this object in view this Council recommends to the Governor General in Council that he be pleased to examine the provisions of the Areas Reservation and Immigration and Registration (Further Provisions) Bill, 1925, and take steps without delay to signify to the Union Government total disapproval of provisions prejudicial to Indian rights and privileges and to ascertain the condition and the views of the Indians in South Africa.*”

The motion was adopted.



to ask Government to make a clearer and more definite declaration of their opium policy regarding production, consumption and export, and whether having regard to the policy that has already been declared, it is not necessary that further restraint should be put on the area under cultivation

I should like to remind the House that not long ago, an expert, Mr Gibbs, giving evidence before the Taxation Committee, informed the Committee that as many as 27 districts are now laid under cultivation for opium. That is true about the United Provinces. There are small tracts in the Punjab which are also cultivated. The statistical reports available so far show a state of things that is not quite intelligible to the outside lay public, and probably my Honourable friend in dealing with the matter will attempt to throw some light on the subject. In 1921 the acreage was 1,22,888. There was a drop in 1922-23 and a further rise in 1923-24, the acreage being 1,42,152. The corresponding figures regarding cost of production are available and make people anxious. They point to the same direction of erratic rise and fall in the acreage as well as production. I do not know whether this fluctuation has anything to do with the demand for a supplementary grant that came up while I was still a Member of the other House in 1923, when I felt it to be my duty to oppose that supplementary grant. The reason put forward at the time by Mr Ansorge on behalf of Government was that the crop was an exceptionally good one and obviously the output would be more than they actually required at the moment. On the other hand, they were unable to refuse to purchase that opium which had been growing under the control and under a licence given to the cultivators. It could not be grown otherwise and it could not be sold privately. That was the reason, Sir, why the supplementary grant of 77 lakhs was demanded at the close of the year 1923, I believe it was. That was put forward as an exceptional and accidental circumstance, and exceptions and accidents are not apt to occur every now and then.

I do not understand the meaning of the fluctuation and should like to have a clear understanding of the matter. Figures given in statistical abstracts and by the representatives of Government in the Council do not tally. But certainly it appears from the figures that are available that having regard to the declared policy of Government themselves, the area is diffuse, the area laid under contribution is much larger than requires to be cultivated and the system of advance which is dealt with in the second part of my Resolution is sometimes responsible for results such as I have referred to already, namely, that, if as a result of advances cultivators do get and bring in a larger crop of opium than Government ever thought of requiring, they are bound to take it because there is no other way out of it. That would bring me to the question of advances. We want to make advances in cases where we want to nurse an industry, and not where we can get whatever we want to get without any elaborate system of advances. The system may have been necessary in the beginning, but I am quite sure that under the circumstances now prevailing such a system can have no importance even in regard to large quantities, let alone the smaller quantity that the Government now or in future will require.

Sir I will shortly indicate the reasons for the growing popular opinion with regard to the matter. Reference has been made to the recommendations



of the Royal Commission on Opium of 1893, upon the basis of which Government are still proceeding both with regard to the general policy or general administration of carrying out that policy. In connection with this Resolution I do want to raise the question of Government policy, and I trust we shall have clear information with regard to the matter, so that the country may know what the Government propose to do in the near future.

From an authoritative work by Mr Willoughby recently brought out as a result of the proceedings in the Geneva Conference I desire to give an extract to the House which will show exactly how, from points of view other than that of the Government of India, the question rests. He says —

“Despite world wide scientific and medical opinion that the eating or swallowing of opium, as practised in India, is highly deleterious from the physiological point of view and basing from the moral point of view, the Indian Government still asserts that, given the conditions prevailing in India, it is neither desirable nor feasible to restrict the use of the drug to what, in other parts of the world, are considered to be proper medicinal purposes. This determination and the policy based upon it is founded upon conclusions declared by a Royal Commission which made an elaborate report upon the subject in 1895.”

I was wrong in giving the date as 1893.

“There is, however, abundant evidence that the Commission did not make an impartial investigation of the subject, and even in Great Britain it has been admitted by some of the highest authorities that the report was not one that deserved high respect.

“However, the British Indian Government has continued to rely upon the report of this Commission in support of its opium policy. Thus, in its official defence of this policy, issued in 1923, it is said ‘The findings of the Commission still stand as a complete justification of the Government’s policy.’”

Sir much later than 1895 there was an unofficial commission that of the National Christian Council, which summed up the situation as follows —

“We would sum up the state of public feeling by saying first, that mass public opinion on the subject does not exist, secondly, that enlightened people increasingly dislike and are conscious of the evil of opium eating; third, that the reforming minds of India are giving their attention to the problem more and more with every month that passes; and fourth, that the restrictions which in our view the facts demand would not be followed by any outcry, if only because those who have shown themselves most able to sway the masses of the people have definitely ranged themselves in favour of such restrictions.”

That would be in answer to what Lord Hardinge and others have said about the likelihood of disastrous results to India itself and to the Indian people if further restriction was to be placed upon the cultivation and consumption of opium. Sir John Jordan’s testimony as well as that of the book I am quoting from laid down that, although since 1923 India ceased the production of opium for exportation to China she has continued to produce opium in great quantities for domestic consumption and for countries other than China. There has been abuse in regard to export.

Sir, it is from that point of view, and from the point of view of the declared Government policy and intention in the matter that further restriction in regard to acreage is necessary, and also from points of view analogous to those, the discouragement of the advances system has also become necessary. There is an interesting fact that has recently come to my notice, which I should like to place before this House in connection with the cultivation of opium in the Ghaziapur district. I know historical facts are now being challenged, and history is being made and re-made and renewed and revised to suit different points of view, but original documents can never lose importance, and I shall read out a short extract from the Sanad of the Moghul Emperor written on the 4th day of Rajeb, the 6th year of the reign, 25th December 1764. It runs as follows —

“It becomes the Company to show their grateful sense of our Royal favours, and to exert themselves to the utmost, in the proper management and regulation of the country, to encourage and befriend our subjects, to punish the contentious, and expel the rebellious from their territories. They must use their best endeavours to promote the welfare of our people, the Riotts, and other inhabitants, to prohibit the use of things of an intoxicating nature, and such as are forbidden by the Law of God, in driving out enemies, in deciding causes, and settling matters agreeably to the rules of Mahomed.”

I need not go through the rest of the extract. I know, Sir, that the Honourable Sir Basil Blackett deprecated reference to ancient history, as ancient as 1908, and if I have the temerity to refer to history earlier than that, that of 1764, I know I shall be met with the same criticism. At the same time we cannot forget that in getting that lease from the then Moghul Government, the East India Company took it with their eyes open, and with the limitations mentioned in the Sanad. It knew at all events that that particular tract was expected to be spared the destiny that followed later on. Whether it could be prevented or not is another matter. I have a shrewd suspicion, Sir, that these doubts were not absent from the minds of the Board of Directors that used to rule the destinies of the country then, for in a despatch dated 1817, 24th October, I find the Board of Directors expressed “the desire to restrain the use of this pernicious drug as far as possible, except for medicinal purposes, and said they would gladly do it for compassion for mankind.” The cry of “compassion for mankind” has been raised in other forms from other quarters, and most of all in the League of Nations, where all international matters of this kind are being dealt with. The Government realised their responsibility in the matter and were steadily doing all that they could do, always bearing in mind the restrictive terms in this direction. We submit and we show that it is possible to do a great deal more with regard to the cultivation of opium, with regard not only to internal consumption but also with regard to export. But in spite of all that the Government have done in spite of all that is admitted, the Government are lending themselves to the abuse in some shape or another. The remedy would be further restriction of production, and for that I plead the first steps towards which must be restriction of acreage. I have brought up this Resolution, Sir, in good time for the Government to consider their policy, and if they are so advised, to make arrangements for the next season and see how far acreage can be further restricted and how far the advance system can also be restricted. I realise that a long-standing system like that cannot all at once be substantially

curtailed or done away with at once, but with the realities before it, the Government I am sure, if they are really anxious to be helpful in the directions that I have indicated, ought to be able to take advance steps so that the restriction I plead for may be possible

THE HONOURABLE MR A C McWATTERS (Finance Secretary) Sir, I think it may be for the convenience of the House and may also tend to shorten the discussion, if I rise at this stage to explain the attitude of Government in regard to this Resolution. The Resolution divides itself into three parts, the first part refers to the restriction of the area of cultivation, the second recommends increased control and the third recommends the discontinuance of the system of making advances. Now, with regard to the first part, namely, the restriction of the area of cultivation, I have a fundamental criticism to make and that is that the Honourable Mover has begun at the wrong end. It is quite obvious that the area must depend upon your policy and his speech showed that he realised it also, because a good part of his speech not unnaturally was really devoted to a criticism of our policy. I think that in these circumstances his Resolution should have been differently worded. The Resolution speaks of the restriction of the area and gives no special reason why the area should be restricted. As regards the policy, I will refer to it later, because I have something important to say on that subject. But in the meantime I should like to tell the House what we have actually been doing in the direction of restricting the area under cultivation. It is obvious that we have had to take into consideration not only the probable reduction of our export trade and the progressive reduction of internal consumption, in regard to which I gave the House some striking figures last March, but we have also to consider the question of our stocks. All these three factors have to be taken into consideration in determining the area to be sown.

I will now give the House some figures of the actual area which has been under cultivation in recent years. Seven years ago in the United Provinces, which is practically the only important area in British India where opium is cultivated, the area under cultivation exceeded 200,000 acres. Three years ago, i.e., in 1922-23 the area was reduced to 141,000 acres. The area in 1923-24 was 134,000 acres. In the current year it has been reduced to 116,000 acres and in the year which will begin shortly, 1925-26, we have arranged to cultivate only 74,000 acres. This means that in the next season the area to be put under cultivation will be a little over one-third of the area cultivated 7 years ago, a little more than half that of three years ago, and will show a reduction of 36 per cent on the amount put under cultivation in the current year. I think those figures are striking. As I have said, it is a result not only of our policy but of the fact that in the last two years we have had an exceptionally large outturn in the opium fields. It is this exceptional outturn which explains why we have had to come up recently for supplementary grants. It is not due in any sense to increase of acreage but to the exceptionally favourable seasons. The opium crop is a very variable one and in the last two years the outturn has been much above the normal. There is a further point in regard to the area of cultivation, a point to which the Honourable Mover quite rightly referred. He quoted the evidence of Mr Gibbs before the Taxation Inquiry Committee. Mr Gibbs' point was that the area should be

concentrated as far as possible. It is a point which Government have not over looked. Out of 37 divisions or sub-divisions in the United Provinces, we have already abolished 9 and we contemplate closing down several more in the near future with the sole object of getting the cultivation more concentrated and more under our control. With regard to the small areas in the Punjab, the Local Government is considering the question of further restrictions and control in those areas. We have also reduced the price last year by Rs 2, from Rs 15 to Rs 13, and we again contemplate further reduction.

THE HONOURABLE DR SIR DEVA PRASAD SARVADHIKARY The price paid to the cultivator ?

THE HONOURABLE MR A C MCWATTERS Yes, the price paid to the cultivator of opium. Then, there is another area from which we obtain considerable supplies, namely, the Malwa States. We have carefully reconsidered our engagements with the Indian States concerned and we have been able to reduce the amount for which we have contracted from 11,400 maunds in the current year to 6,500 maunds for next year. I think these figures show that Government have not overlooked the necessity of restricting the area and the production of opium in accordance with their policy, both external and internal, and in accordance with the requirements of the stock position.

I will now turn for a moment to the question of policy. I do not desire to repeat the whole of what I said in March last in this House. So far as consumption in India is concerned the House knows that the Central Government have no financial interest whatever in the opium supplied to the Provinces and I think the sense of the House was certainly with me when I took the view that the proper line of action was for us to co-operate with Local Governments in putting down abuses of opium—eating or smoking wherever they exist—and we have been pursuing that policy, in consultation with Local Governments. So far as exports are concerned, the House knows what financial sacrifices we have made in the past. I think it is sufficient to repeat that the average annual revenue of the Central Government from opium in the 3 years before 1913 was over 8 crores of rupees. The preliminary actuals of last year show that the revenue last year was Rs 1 crore and 42 lakhs. I think that everyone recognises that the Government of India have made very substantial financial sacrifices.

I think we are entitled to ask that if we are to push those sacrifices further, as we are prepared to do, we should endeavour to ensure that our efforts are not wasted and that the policy adopted should be one which will really bring to an end any abuses of opium eating or smoking that may exist and not merely result in the opium from India being replaced by opium from other countries. After all, with a crore and a half a good deal can be done and I think we are entitled to ask that our sacrifices should not be made for no purpose. We have, for some years past, as the House knows, adopted a system, so far as exports are concerned, of allowing export only under the certificate system. We either sell direct to foreign Governments under definite agreements or we allow export on a certificate from those Governments. It might have been a possible line to stop there and say that the importing country is responsible. We have, as a matter of fact, gone further in two instances. In the case of Macao and in the case of Persia we have actually ourselves taken the initiative and stopped

export, although the opium was desired by those countries. Our attitude in regard to exports has now been again considered by the Government of India in the light of their commitments at Geneva. They are anxious to show to the world that they are prepared to fulfil their obligations in the spirit and not merely in letter. Therefore, I have the full authority of Government to tell the House that the Government of India are now prepared to accept some measure of responsibility even for licit exports covered by certificates. That is to say, they are prepared to prohibit or restrict export even where foreign Governments are prepared to furnish a certificate, if there is evidence that the opium is finding its way into the illicit trade. This is an important declaration of policy and I think that it should help to meet the complaint which the Honourable Mover made about Indian opium being smuggled out of the countries to which it is in the first instance consigned.

I now turn to the question of control. Last March when I dealt with this question, I said very little about control because I was speaking at some length upon other matters. I contented myself at that time with quoting the opinion of one of the most hostile critics of Indian opium policy and if the House will bear with me I will quote that opinion again. The quotation is from Miss Eileen de la Motte. This is what she said on the question of control.

“Every step relating to the control and output is carefully and systematically regulated and has been brought to the highest pitch of efficiency, a model and example to the rest of the world.”

Last March I left the matter at that. But, as the question of control has been definitely raised and as few people know how close and intimate that control is, I should like to give very briefly a few more details. In the first place as is known, the produce of poppy cultivated on Government account can only be obtained from Government. It has to be delivered to the Government Opium Department. From that Department it is issued only to licensed vendors wholesale or retail. The wholesale vendor can only sell such opium to other licensed vendors or to licensed druggists. The retail vendor may sell to individuals. Thus the individual can only obtain opium produced in India from a licensed retail vendor or a licensed druggist. Each stage of the distribution down to the retail vendor is safeguarded by an elaborate system of transport passes, while the conditions governing the licence of a retail vendor are most stringent. He may not sell to any one person at one time more than the quantity of opium which an individual may lawfully possess, he may sell only for cash and only on premises for which he is licensed, he must not allow consumption on such premises, and he must keep correct daily accounts of his sales which shall be open at all times to inspection by excise officers. There are further still more stringent restrictions in regard to opium for smoking. It is a system which has been developed through many generations and it has been brought to a very considerable state of efficiency. To illustrate the extent of our control over the area under cultivation, I should like to mention that during the last 15 years the area which has actually been cultivated has been less than the area settled except in two years when there has been an excess of less than 4 per cent. This shows that our opium officers keep a very close control over the area which is cultivated.

I now come to a still more important point regarding control which is that at Geneva we have recently agreed that we will allow an independent Committee of the League of Nations to visit India, as it will visit other signatory countries, after 5 years in order to examine our system of control and to assure themselves that it is absolutely water-tight. To this independent examination we have quite willingly and readily consented.

I now turn to the third point, namely, the advances to cultivators. This is an administrative matter and I think that the Honourable Mover has made a good deal out of what is after all a small point. It is a very old practice indeed. It dates back, I believe, from the days of the Mughal Emperors. We have references to it even prior to 1764. It is a practice which is not confined to opium. It is specially suitable where there is a crop which requires more than the usual amount of preparation of the soil and where there is a single purchaser who requires an assured outturn to be dealt with on business methods. For these reasons this system of advances has frequently been resorted to for such crops as opium, sugar and indigo. Now, there are two main reasons why this practice has always been found to be useful. First it ensures our having a much closer control over the area which is cultivated. It is obvious that if advances are not made we should have less certainty of particular areas being cultivated with opium. Therefore, in order to obtain the outturn which we require, we should have to settle a larger area than we do at present. In fact, as the Honourable Member desires to restrict the area of cultivation, he should welcome the system of advances, as it gives us much greater control over that area. The second reason is that our advances keep the cultivator out of the hands of the money-lenders. The amount of advance is not very considerable. It is about one-fifth of the total amount eventually due to the cultivator. It is made only to enable him to sow his crop without having to resort to the money-lender. The only result of the abolition of these advances will be that Government will have to offer a higher price and will be paying a portion of the money-lender's profits. We have had this matter under consideration on several occasions and we have always come to the conclusion that it would be a retrograde step to abolish the system.

That is all, Sir, I have to say on this Resolution. I have shown what we have done in the direction of restricting the area cultivated. I have made a statement about our policy which is, I think, important. I think the House will realise what is my fundamental objection to this Resolution, namely, that the question of policy must have precedence over the question of the restriction of area. With regard to control, I have given a short account of our system and I have made an important point, namely, that the Government have agreed to accept the investigation of an independent committee of the League of Nations. As regards advances, I consider that it enables us to keep a closer control over the area under cultivation and that it is both for the benefit of the cultivator and the Government that he should not have to resort to the money-lender.

For these reasons I do not think I can advise the House to accept the Resolution and I hope the Honourable Member will not find it necessary to press it after what I have said. I do hope that the House will also realise that we are not hostile to and indeed are anxious to receive any sound and practical suggestions for the improvement of our opium administration.

THE HONOURABLE DR DWARKANATH MITTER (West Bengal Non-Muhammadan) Sir, in supporting this Resolution of the Honourable Dr Sir Deva Prasad Sarvadhikary, I have in view the fact that the Honourable Mover of the Resolution is actuated by a very noble motive, namely, that of directing the policy of Government into a definite channel, that is to say, so far as home consumption of opium is concerned to reduce or diminish the drug habit of the people. The less the area of cultivation the less will be the production and the retail prices will consequently increase and opium will not be accessible so easily to the people who have cultivated the drug habit as it is when the area of cultivation is unrestricted. I do not know if the time has come when Government will agree to restrict the area of cultivation to the amount of opium which may be necessary for medicinal and scientific purposes. That is the millennium to come at some distant time. So far as India is concerned, the practice of swallowing or eating opium dates so far back as the sixteenth century and the habit cannot be eradicated in a day, but at the same time it has been stated by the Government, both by the Honourable Mr McWatters and the Honourable Sir Basil Blackett, that the question of diminution of revenues will not prevent the Government of India from directing their policy into a channel which will really raise the condition of the people to this extent that there will be less and less of an indulgence in this pernicious habit either of eating or swallowing opium, or, so far as prepared opium is concerned, of smoking it. Honourable Members of the House will further notice that there is in some parts of the country, a practice which is very prejudicial and deleterious, namely, that of giving opium to children to keep them quiet amongst working mothers in certain industries areas. Government will have to consider in future whether special measures will not be necessary to prevent that being done. I am bound to submit to this House that on account of the progressive increase in the retail price of opium there has been a considerable diminution in consumption in British India as I find from the figures and the Honourable Mr McWatters will say if I am right. The amount now consumed *per capita* is 18 grains, while in 1895 it was about 27 grains *per capita*. The Honourable Sir Basil Blackett said in his speech last September that so far as Government are concerned they have decided to restrict the amount of imports and exports from India. The fact that it involved a further reduction in the revenues of India will not for a moment be allowed to affect Government's attitude in this behalf. The Resolution has done good in drawing prominent attention to the fact that Government will have to accede to the policy which will restrict the area to such an extent as will be necessary for the proper use of opium either for medicinal or scientific purposes or what may be required for the moderate use of opium. I support the first part of the Resolution.

With reference to the second part of the Resolution I feel some difficulty in supporting it, because I find from the speeches of previous speakers that this has been a practice which has been in existence from very ancient times. I am not prepared to support the second part of the Resolution as it is a matter of detail which Government may at some future time consider. I support the first part of the Resolution that Government should see their way to restrict the area for cultivation. The Resolution however does not define to what extent or in what proportion the restriction should be made. I fully realise that there

is sufficient force in the statement of the Honourable Mr McWatters, that first you have to define the policy. The Resolution in one sense really puts the cart before the horse. The Resolution has, however, drawn prominent attention to this fact that Government must change their policy in the direction that public opinion desires. For these reasons I support the first part of the Resolution.

THE HONOURABLE MR K C ROY (Bengal Nominated Non-Official) Sir, with your permission I move for the adjournment of the debate on this Resolution till the next cold weather Session in Delhi. We are indebted to the Honourable Mr McWatters for his illuminating speech in which he has told us much about our commitments in general, and withheld some. He has given us no details. We have not even before us the report of the Indian Delegation of 1924-25. Mr McWatters next took us into his confidence when he said that he was in correspondence with Local Governments about internal opium policy, but he has given us no details. It is consequently unfair that we should be asked to vote either for the Resolution or against it. In the third place, there is the insoluble problem of opium cultivation in Indian States. We know nothing about it and there is no data before us. On these three grounds, therefore, I beg to move, Sir, that the debate be adjourned till the next cold weather.

THE HONOURABLE THE PRESIDENT Amendment moved

"That the debate be adjourned to a future Session."

I think that I should point out to the House that this amendment amounts to a proposal to close the discussion altogether, inasmuch as this Resolution will naturally disappear when the Council of State disappears.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General) Sir, I did not intend to speak on this Resolution of my Honourable Colleague to-day, but the motion for adjournment which has been made by the Honourable Mr K C Roy compels me to oppose it. The Honourable Mr McWatters has very graphically and clearly explained the policy of the Government of India in the matter. He has in unequivocal language assured this Council that the Government of India have taken steps in the matter of the opium policy to restrict not only production but consumption. He has also pointed out that adequate measures have been adopted for the control of the industry. He has also given convincing reasons why these advances have been made by Government in the matter of the cultivation of poppy, and finally he has also informed the House that the Government of India have agreed after five years to an open examination of the condition of affairs by an impartial tribunal which will represent the League of Nations.

In view of these statements, and in view of the policy of Government also described in this Council last year very ably and fully by the Honourable Mr McWatters in response to a similar demand, I consider that this Resolution is entirely unnecessary and superfluous and that no useful purpose would be served by adjourning the consideration of this measure till next cold weather, as my Honourable friend Mr K. C Roy has suggested. If the object of my Honourable friend Mr Roy is to save this motion being defeated in this Council to-day, I entirely sympathise with him for having been so

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resourceful in having suggested this adjournment (*The Honourable Sir Dera Prasad Saravdhikary* "But we are so accustomed to defeat") Sir, so far as the policy of the Government of India is concerned, no serious objection could be taken at this stage. When the Government of India sacrificed their finances in response to a certain class of faddist I was the first to raise my voice in opposition to the policy which was then adopted in the late Imperial Council. I then pointed out that the policy which the Government were then adopting would not receive a similar and sympathetic response from other countries, I then gave a warning to Government that they were throwing away their resources for the mere ideal and unattainable uplift of humanity, which would not be fully responded to by China where the bulk of our opium was shipped and other nations, and that their attempts would be fruitless. What I said 15 years ago, when Sir Guy Fleetwood Wilson was the Finance Minister in charge, has been borne out by a succession of events, and it is now a matter of common knowledge that the finances of India have been deplorably sacrificed to meet certain sentimental objections. Sir, the adoption of this Resolution is open to serious objection. Our finances have been put into order lately by heavy taxation. In the last three years taxation to the tune of 50 crores of rupees have been imposed on India, and now my Honourable Colleague to-day wants that a further slice of the revenue which we are entitled legally, morally and lawfully to obtain should be sacrificed, which would inevitably lead Government to a further imposition of additional taxation. That would be the natural implication of the acceptance of a Resolution of this character. Sir, the Government of India on successive occasions have made a definite declaration of their policy. Even the Finance Minister, the Honourable Sir Basil Blackett, in dealing with the subject of opium revenue when discussing the last financial budget, clearly pointed out that it was the avowed policy of Government to go in steadily for a reduction and control of the growth of poppy. In view of all the circumstances, I consider it is absolutely unnecessary and wholly superfluous to consider this Resolution any further. I also oppose the motion for adjournment, and I think, in view of the assurance given by Mr McWatters on behalf of Government, my Honourable friend there will see his way to withdraw his motion, but if he does not, there is only one course left to this Council, and that is to oppose and reject it.

THE HONOURABLE SIR DINSHAW WACHA (Bombay Nominated Non-Official) Sir, I shall not detain the Council for many minutes, neither am I going to speak physiologically on the subject or in any other way. I only want to say a few words on the policy of the Government in regard to this matter. Sir, I may claim to be one of the oldest and most vigorous critics of the Government opium policy. I have been a critic from the year 1885 when there was a discussion brought forward in Parliament by the Archbishop of Canterbury. I was one of the persons who very often discussed this question in the Press and on the platform. I was also one of those who took part in a large mass meeting which was held in the Town Hall by the Bishop of Bombay, Dr Mylne. Then, later on, in 1897, when I was in London I addressed along with my old friend the late Sir Surendranath Banerjea a large meeting specially held in Exeter Hall, and since those days I have constantly and closely watched very carefully the policy of the Government in regard to opium. I was exceedingly glad when the treaty with China

was concluded some 15 or years ago. From that time forward every Member of the Council must have seen how the opium revenue has steadily dwindled down and down. Twelve crores was the maximum that we had about the time the treaty was under negotiation till we have now less than 2 crores of rupees. The only opium we now grow is the opium for internal consumption—more or less for medicinal purpose and a little for export. We may feel assured that the Government will still bring down the cultivation of opium to the minimum. We may fully rely on the assurance given by our Financial Secretary, that the Government will steadily pursue the policy. That being the case, I think the Council will act wisely by not prolonging this debate unnecessarily, and I do hope, and sincerely hope, that my friend, Sir Deva Prasad Sarvadhikary, who has brought forward this Resolution with the best of intentions, being a reasonable man and a man of practical common sense, will withdraw his motion. With these words, I take my seat.

THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY Sir,

3 P M

it has been one of my ambitions in life to earn the approbation of my Honourable friend from Bombay in whose good company I have all along been in the crusade against opium and drugs and liquor. I should not lightly want to lose that approbation. On the present occasion, however, matters are on a slightly different basis. We have had pronouncements and announcements from the Honourable Mr. McWatters that make my position, at all events with regard to the first portion of the Resolution, stronger and more unassailable than ever. He has been good enough to say, and I congratulate him and Government on the announcement, that there have been steady efforts at restriction of acreage. That being so and there being an admission of the need for restriction, I fail to understand why so commonplace and obvious a Resolution like that commending further restriction to the attention of the Government should not be acceptable to Government, unless it be for reasons which I do not want to attribute to the Government, namely, that to be told to do the right will not suit them unless they make up their mind to do the right on their own account. Sir, I do not think that the request of the Council of State, if my Honourable colleagues are with me, with regard to at least the first portion of the Resolution can possibly come amiss to the Government. A case for restriction has been made out and a case for restriction has been admitted by the Government. I may not be able to say definitely, clearly and unequivocally how far further restriction shall go, because, Sir, as has been pointed out and as my Honourable friend claimed in his speech, the questions of policy and of restriction must go hand in hand. I could not dictate the policy, and I am supposed to have chosen what my Honourable friend called the wrong end of the stick. But any end of the stick is good enough for certain purposes if that purpose can be even partially achieved. I say that though you have been restricting the cultivation, this restriction has not been enough. You say that I have not yet defined my policy. Whose fault is that? There are your Geneva commitments. There is public opinion insistently wanting you to lay down your policy regarding the absolute minimum of cultivation under the present circumstances and you have not yet framed your policy. That is not the fault of this House or of those outside it who are urging the Government to have a more restricted policy. Therefore, Sir, I find it difficult to fall in with the

views of those of my friends who have advised me to withdraw my Resolution

I see, however, greater force with regard to their suggestions in the second part of the proposal. And if you, Sir, be good enough to put the Resolution in two parts, I shall be quite prepared to fall in with the views of my friends who advise me to withdraw my Resolution with regard to the second part. I am myself not at all convinced by what my Honourable friend Mr Yamin Khan or for the matter of that other Honourable Members have said with regard to the propriety of continued advance. I do not agree that unless you want me to nurse an industry of agriculture like sugar, there is occasion or justification for an advance. Certainly not from public revenue. It so happens in this case that Government are the monopolists and not in the position of a Government pure and simple. They are more like private dealers giving advances and taking a *quid pro quo*. That has been the ancient practice but it is not necessarily the correct practice, at least now when people have realised what can be done if they take to the cultivation within such areas as Government may think fit to prescribe. Sir, I am quite in sympathy with those of my friends who want to keep the cultivator out of the hands of the money-lenders and I wish that their good wishes and good feelings could materialise in various other directions where such help is much more needed for the agriculturists proper than for the opulent and flourishing opium trade. Therefore, that argument does not weigh with me.

Reference has been made, Sir, to indigo advance. I wish my Honourable friend had not referred to that. It has a doleful, un-cheery and regretful history behind it which we do not want to re-call. It will die its natural death and we do not want it to be resurrected from the end that it has properly attained. In spite of all that, Sir, I am prepared, having regard to the administrative reasons that have been urged, to withdraw the second portion of my Resolution.

With regard to the first portion, Sir, I am sorry to have to divide the House. I am sorry that I have been the unwilling cause of bringing them after the mid-day adjournment and I hope Honourable Members will not mind that. As some fundamental questions have been raised, I am afraid I shall have to go a little more in detail in my reply than I would otherwise have done. Government may on this occasion well cry to be saved from their friends. They themselves have not put forward financial reasons. They do not mind the dwindling revenue under the opium head. But there are friends of Government here who regret the good old days when "nations could be uplifted" in their own words—what nations I do not know—out of the revenue that the Government was accustomed to derive from the old opium head. Whatever uplifting that might have been it must have been at the expense of some other nations. The argument that "if these foolish nations do not want to behave, what does it matter to us, we shall go on making money as we have been doing out of opium and let them do what they like" will no longer answer. That is a proposition that did not appeal to people in the near past. We have embarked upon a settled policy from which there is no going back that the opium revenue shall be sacrificed. I am sure a crore and a half will not be much of a matter now to be taken into consideration after we consulted to the loss of many more crores, having regard to commitments that have been already referred to.

Incidentally, Sir, let me refer to the 50 crores that we are supposed to have been paying in the shape of additional taxation. That was the dictum of an expert whose opinion is always entitled to great respect. But has it been all or largely because of the loss of opium revenue? No. Moreover an expert not far from me here reminds me that it was nearer 90 crores than fifty that we have been paying in the near past in the shape of additional taxation. Surely loss of opium revenue is not answerable for this. I shall however leave that matter to be settled by experts. Anyway, Government and the people have agreed that the question of financial loss shall not stand in the way of the ultimate solution of this question. With regard to the moral aspects of the question about which my Honourable friend Mr. Yamin Khan has still doubts, I think the Honourable Member from Assam has fully answered him and if I might give him one or two extracts from medical opinion, I think it would serve my purpose all the better.

Dr S K Datta speaking in the Assembly on this very question pointed out last March that the document of 1911 (Lord Hardinge's pronouncement) laid down that opium possessed certain medicinal properties. In the first place it was supposed to be a specific against malaria, an exploded theory. During the luncheon interval one of the Honourable Members hailing from the neighbourhood of the Godavari District said to a suffering member that it was an antidote against malaria. I said on Dr S K Datta's authority that it was not. In the second place it was claimed to be an anodyne, and there according to Dr Datta, certainly experience was with the Government of India. In the third place, it was supposed to be necessary for the ailments of children. This is an absolutely exploded theory which is borne out by the testimony of well known Doctors, like Doctor Jibanu Mistri of Bombay who says

"The percentage of opium eating under medical advice is very small. The greatest abuse to which it is put is the prevailing habit of dosing children with it to keep them (a) from crying, even when it is due to such legitimate cause as insufficiency of mother's milk, or (b) to keep them quiet while the mother goes out to work, or (c) from a prevailing false impression that it is good for the healthy growth of a child."

I do not want to labour the point further because I think it is generally agreed that neither on moral nor medical grounds, in spite of the findings of the Royal Commission of 1895, which have been seriously challenged, can it be said that in the interests of the people of India the consumption of opium cannot be reduced.

Regarding exports my Honourable friend has himself admitted that if abuse is proved, Government will be prepared to reconsider the question of exports under the certificate system. That there is room for such reconsideration is indicated by the Geneva report to which I did not think it necessary to refer in my opening speech, because I thought that it was not likely to be challenged. One of the opinions expressed by Sir John Jordan was as follows. He declared that, unless the Committee could take effective measures to prevent the large export "it was better to abandon the matter." He hoped other Governments would follow India's practice of not attaching importance to import certificates. He added that nearly the whole of the exports from the Persian Gulf were nominally destined for Vladivostock, but they were really landed elsewhere.

I do not for a moment suggest that the Government of India have been at all remiss with regard to this matter, but instances of abuse are clearly indicated which will make Government, in the light of what my friend has told us to-day, reconsider the situation and revise the certificate procedure under which export is allowed. Even in these Geneva Conferences I do not think statements of fact are always accurate and can be implicitly relied on, and I should like to take them with the usual reservation. For example, when certain people were attacking the Portuguese Government with regard to the situation in Macao, the Portuguese delegate said that in Macao the consumption of opium was relatively negligible. Sir Malcolm Delevinge drew attention to certain inaccuracies in the Portuguese report concerning re-exports of opium from Macao. Therefore there is a great deal of room for reconsideration of the whole question of export as well as internal consumption. The matter was fully gone into in the debates here as well as in the other House in March last. Therefore I do not want to tire the patience of the House by referring to that at length. I submit, however, that the first part of the Resolution at all events should be accepted. Regarding the other part, I am in your hands and in the hands of this Honourable House, and I have indicated my views on that point.

THE HONOURABLE MR A C MCWATTERS Sir, I do not propose to inflict a second speech upon the House but I was glad that the Mover on reconsideration has decided that the second part of his Resolution had better be left out. I think the administrative reasons that I gave are quite conclusive. As regards the first part I was still waiting to hear my main objection to this Resolution answered, which is that you must define your policy first and on this account the Resolution as it stands is in my opinion practically nugatory. It is a Resolution which, if the House adopted it, would serve no useful purpose whatever. I took great trouble in my speech to show what real advance we had made in regard to opium exports. The reply of the Honourable Member has more or less confirmed what I said in regard to the action which Government are taking. With regard to the restriction of area, we have already made great restrictions after full and careful consideration of the policy which we have accepted. As regards any further restriction in general terms such as this, I would say that it is absolutely meaningless. I must, therefore, oppose the Honourable Member's Resolution.

The motion was negatived

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*Thursday, 3rd September, 1925*  
SPECIAL LAWS REPEAL BILL

THE HONOURABLE MR V RAMADAS PANTULU (Madras Non-Muhammadian) Sir, I beg to move that the Bill to repeal certain special enactments supplementing the ordinary criminal Law, as passed by the Legislative Assembly, be taken into consideration

In doing so, I desire to narrate very briefly the events that led up to the passing of this measure by the Assembly, in the hope that such a narration as that will itself be sufficient to induce you to vote for this motion. The Bill is the outcome of long and strenuous efforts made by both Chambers of their reformed Central Legislature to secure the repeal of the repressive laws which disfigure the Indian Statute-book. I am glad to be able to say that the initiative in this matter came from this Chamber. On the very first day, after its inauguration, on which it sat to transact ordinary business, the fourteenth Day of February 1921, the Honourable (now Right Honourable) Mr V S Srinivasa Sastri moved a Resolution to the following effect —

“ This Council recommends to the Governor General in Council that a committee be appointed at an early date to examine the repressive laws now on the Statute book and report whether all or any of them should be repealed and, in case where repeal is not desirable, whether the laws in question should be amended and, if so, how ”

The Resolution was carried *unanimously*. In pursuance of it the Home Department by a Resolution, dated the 21st March 1921, appointed a committee consisting of officials and non-officials with Sir Tej Bahadur Sapru as its Chairman. The committee examined 13 repressive laws including the 5 mentioned in the Schedule to the present Bill under discussion. Of these five they recommended the repeal of four. I know that they made a reservation in favour of preserving, if necessary, powers strictly consistent with the original purpose of the third venerable old Regulations, namely, (1) The due maintenance of the alliances formed by the British Government with foreign powers, (2) The preservation of tranquillity in the territories of the native Princes, and (3) The securing of British Dominions from foreign hostility, and, only so far as the inflammable Frontier is concerned, internal commotion. The only Act out of the five now under discussion whose retention the committee recommended was the Prevention of Seditious Meetings Act, X of 1911, but even in respect thereof they recommended its repeal when a healthy change in the political situation permitted. It was itself conceived as a temporary measure even at its inception.

There were no Swarajists or Extremists in the committee. Indeed from the nature of the evidence placed before the committee and some of its recommendations, a section of well informed Indian public opinion suspected (not without some reason, that the Committee and the Resolution) to which it owed its birth, were both inspired by the Government in order to strengthen the hands of the Executive to root out the non-co-operation movement in the guise of partial reconciliation and sweet reasonableness. The era of terrible repression that followed the publication of the report by the committee lent some colour to this suspicion. Whatever may be the truth, it is noteworthy, for my present purpose, that even that committee considered that in regard to many of the laws examined by them, their continuance on the Statute-book was both unnecessary and objectionable and recommended their repeal.

The report of the committee was published on 2nd September 1921, and on the 19th September 1921, the Government passed the following order thereon —

"The Governor General in Council has considered the Report and has decided to accept the recommendations made by the committee, steps will be taken *as soon as may be* to introduce legislation to give effect to them"

In spite of the aforesaid promise to introduce legislation as soon as may be (mark the words) no steps were taken by the Government to repeal any one of the five repressive laws with which this Bill deals

Then on the 20th March 1924, after a lapse of two years and a half, a Resolution was moved in the Legislative Assembly to the following effect

"This Assembly recommends to the Governor General in Council to take steps for the immediate repeal of Bengal Regulation III of 1818, and the Criminal Law Amendment Act of 1908, and other repressive laws and regulations that still exist on the Statute book"

It was carried by an overwhelming majority. Nevertheless the Government did not make the slightest effort to give effect to this Resolution. Then Mr V J Patel (now the Honourable Mr Patel) sent up the present Bill in its original form in September 1924, but it was not reached in that Session. He obtained leave to introduce it in the last Delhi Session on 3rd February and it was ultimately passed in its present form by the Assembly on the 19th March 1925, and was laid on the table of this House at its next meeting in due course. There were very few days in March last left thereafter for me to bring it here for consideration and I have therefore taken the earliest opportunity to bring it now before this House.

From the Schedule attached to the Bill which is placed in your hands you will see that five enactments are sought to be repealed. Of these, the first three are a century old and the fourth is three quarters of a century old. The Bengal State Prisoners Regulation III of 1818, has been extended also to the United Provinces, the Central Provinces, the Punjab, Bihar and Orissa and Assam. So this Regulation, together with its sister Regulations of Madras and Bombay, cover practically the whole of India. All of them deal with offences against the State and were enacted long before the passing of the Indian Penal Code which contains a Chapter exhaustively dealing with every conceivable offence against the State including *conspiracy*. At the time when the first three Regulations were enacted the British power was not firmly established in the land. Titular Sovereigns and their more powerful provincial chiefs were still on their thrones and more than one European Power was contending for sovereignty or supremacy in India. The Preamble of Regulation III of 1818 is sufficient to give you an idea of the purposes which these enactments were intended to serve.

"Whereas reasons of State, embracing the due maintenance of the alliances formed by the British Government with foreign powers, the promotion of tranquility in the territories of native Princes entitled to its protection and the security of the British Dominions from foreign hostility and from internal commotion, occasionally render it necessary to place under personal restraint individuals against whom there may not be sufficient ground to institute any judicial proceedings or when such proceedings may not be adapted to the nature of the case or may for other reasons be inadvisable or improper"

It is not denied that the ordinary law covers the offences contemplated by these archaic, antediluvian, and unjudicial pieces of legislation. I call them *unjudicial* because they are of the nature of *lettres de cachet* which dispense

with all forms of legal trial and make the very Executive which is the subject of attack by the alleged offender the prosecutor, judge and executioner. The main ground urged for their retention is the impossibility of securing in all cases the evidence necessary to bring the accused to trial in a court of law. This stale and stock argument of the bureaucracy was fully and sympathetically considered by the Repressive Laws Committee to which I referred and was disposed of by it in the following tender way

"We recognise the force of these arguments, in particular the difficulty of securing evidence or preventing the intimidation of witnesses. But we consider that in modern conditions of India that risk must be taken. It is undesirable that any Statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the Members of the Legislature. The harm created by the retention of arbitrary powers of imprisonment by the Executive may, as history has shown, be greater even than the evil which such powers are directed to remedy."

It is obvious that the pathetic plea of the Executive for the retention of its autocratic powers of an obnoxious character may have been disposed of on much firmer, more convincing and humane grounds. However, the reasons given by the Committee are sufficient to serve my purpose. Apart from its inherent merits as a piece of just and sound legislation consonant with our modern notions of civilized jurisprudence, there are many points in its favour.

The *first* point in favour of this Bill is the almost unanimous desire which the Members of this House evinced for the repeal of repressive legislation, on the 14th February 1921, as a necessary preliminary for the inauguration of the new era of responsible government under the reformed constitution. The *second* point in favour of the Bill is the recommendation of the Repressive Laws Committee in favour of the repeal of the enactments in question. The *third* point in its favour is the wholehearted acceptance of the Committee's recommendations by the Government in September 1921, accompanied by a promise to introduce necessary legislation for the purpose. The *fourth* point in its favour is the adoption by the Legislative Assembly in March 1924, by an overwhelming majority of a Resolution in favour of the repeal of these laws. I have a *fifth* reason also which I shall state later on. What then are the reasons which actuated the Government to go back on their undertaking of 1921 and to ignore the wishes of both Houses of the Central Legislature? Sir Malcolm Hailey, speaking in the Assembly in March 1924, gave his reasons. He said that after the report of the Committee was received the Government were faced with new dangers, namely the Moplah rebellion in Malabar, information about the existence of a Bolshevik association in this country and the recrudescence of conspiracy in Bengal, and these were said to be the justification for Government's change of attitude. I believe that some of the Members of this House, at all events, know how these dangers were overcome by the Government. The Moplah rebellion was suppressed mainly by the proclamation of martial law and with the help of the military. The absence of a deportation Regulation on the Statute-book would not have handicapped the Government in the least. Moreover I may mention that there is a very drastic special law called the Moplah Outrages Act, which is exactly similar to the Punjab Murderous Outrages Act of 1897, in force in Malabar and that it armed the Government with ample powers



With regard to the Bolshevik Association, it is now a matter of common knowledge, that its members were brought to trial in the ordinary courts at Cawnpore, and there was no suggestion that any need for the use of a rusty weapon in the legislative armoury was felt. As for the conspiracy in Bengal I am not here concerned with the truth or otherwise of its existence. All I know is that in the name of conspiracy about sixty true and honest Swarajists like Subash Chander Bose, Anil Baran Roy and some other lieutenants of the late Deshabandhu C R Das were spirited away under Regulation III of 1818 and the now notorious Bengal Criminal Ordinance was subsequently placed on the Statute-book without the assent of any Legislature in India by recourse to certification and recommendation. Many impartial and respected leaders, including Mahatma Gandhi, openly expressed their belief that the Regulation and the Ordinance were aimed at the Swarajist movement. Sir, I therefore beg to state to this House that the reasons given by Sir Malcolm Hailey for the action of the Government in not repealing these Regulations are to say the least most unconvincing. A very large section of the Indian public, whose feeling I claim to voice, believe that the Government changed their mind simply because, from the latter part of 1921 onwards, the momentum of the movement for the achievement of Swaraj was growing in volume and intensity. I venture to say, Sir, that the bureaucracy is tenaciously clinging to these repressive laws, in order to suppress all effective forms of political agitation. The way in which these Regulations were used in the *anti*-partition agitation days in Bengal confirms me in this view. Men like Aswini Kumar Dutt, Krishto Kumar Mitra, Subash Chandra Mallik and Monoranjan Guha were arrested and deported as revolutionaries. My Honourable Colleagues from Bengal will undoubtedly be able to bear testimony to the spotless character and noble patriotism of these victims of the bureaucratic wrath. The truth of the matter is not that the ordinary law is sufficient to maintain law and order but as Lord Morley put it aptly —

“The great executive officers never like or trust lawyers. I will tell you why? for they never trust or like law.”

Now, Sir, this method of governing by repressive laws has not proved a success in any country, it will tend to increase discontent. In regard to Bengal itself I shall quote the testimony of one who is not in sympathy with the politics of my party—the Swaraj Party—and who is not an unfriendly critic of the bureaucracy, Mr Bipin Chandra Pal. He said the other day speaking in the Assembly —

“I know it that, before these deportations and internments came into existence in Bengal, the revolutionary movement was not half so widespread as it became subsequently. Old men had nothing to do with it. Staid house holders in the villages had no part or lot in this propaganda. But when these deportations came, when these internments came, when the iron of these prosecutions entered into the heart of the simple minded relations and friends of your political suspects—it was then that we found everybody, extremists, moderates, literate or illiterate, moved by a new and deep sense of resentment against the Government coming and telling us. What are we coming to? Is this the Government under which we have to live? This seems to be the experience of rightminded statesmen all over the world. Repression begets greater discontent which in its turn calls for greater repression and so on.

I beg leave to quote one passage from what Lord Morley said about the use of these Regulations when he was pressed by the Indian Government to sanction

deportations under them Lord Morley, the Secretary of State for India then, dealing with these Regulations and the arguments of that character wrote as follows —

“ You state your case with remarkable force, I admit But then I comfort myself in my disquiet at differing from you, by the reflection that perhaps the Spanish Viceroy in the Netherlands, the Austrian Viceroy in Venice, the Bourbon in the two Sicilies, and a Governor or two in the old American Colonies, used reasoning not wholly dissimilar and not much less forcible ”

Speaking of the Regulations this is what Lord Morley wrote —

“ The question between us two upon this matter may, if we don't take care, become what the Americans would call ugly I won't repeat the general arguments about deportation. I have fought against those here who regarded such a resort to the Regulation of 1818 as indefensible So, *per contra*, I am ready just as stoutly to fight those who wish to make this arbitrary detention for indefinite periods a regular weapon of Government Now your present position is beginning to approach this You have nine men locked up a year ago by *l'ordre de cachet*, because you believed them to be criminally connected with criminal plots, and I because you expected their arrest to check these plots For a certain time it looked as if the coup were effective, and were justified by the result In all this, I think, we were perfectly right Then you come by and by upon what you regard as a great anarchist conspiracy for sedition and murder, and you warn me that you may soon apply to me for sanction of further arbitrary arrest and detention on a large scale I ask whether this process implies that through the nine detenus you have found out a murder plot contrived, not by them, but by other people You say, ‘ We admit that being locked up they can have had no share in these new abominations, but their continued detention will frighten evil doers generally.’ That is the Russian argument, by packing off train-loads of suspects to Siberia we will terrify the anarchists out of their wits, and all will come out right That policy did not work out brilliantly in Russia, and did not save the lives of the Trepoffs, nor did it save Russia from a Duma, the very thing that the Trepoffs and the rest of the ‘ offs’ deprecated and detested.”

I beg to commend these noble and weighty words to this House

Sir, I said I had a fifth reason to urge in favour of my motion It is this This Bill was passed by the Assembly by an overwhelming majority Almost all the elected representatives voted in its favour Not only Swarajists but Independents, Moderates, Liberals, and in fact members belonging to all sections of the House except the officials upheld it The circumstance ought to carry great weight with this House The country is decidedly against the retention of these dangerous powers in the hands of an alien bureaucracy which is not responsible to the Legislatures and which is irresponsible to popular opinion Many of you will have to face your electorates very soon to seek re-election to this Chamber You cannot do so *justly* if you do not voice their feelings in this vital matter The theory that the elected representatives are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one We have no justification to sit here and vote against the wishes of those who returned us I therefore appeal to you all to vote for this motion To my official Colleagues I will say one word I cannot do it better than by quoting the words with which the Honourable Mr V S S Sastri, commended his Resolution for the appointment of a committee to repeal the repressive laws to this House

“ It would be incongruous with popular liberty which we are confidently hoping that the new Councils will inaugurate, it will be incongruous with that principle if the repressive laws now on the Statute book continued there in the present form In giving such liberties as may seem suitable, in taking such steps as may seem advisable let there be no reservations to the extent that you wish to go Go ahead bravely and not haltingly.

It is the most essential condition of success in this great work. But has no buts, let there not be a superabundance of ifs. So working we certainly will do what no other people in the world has done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods."

With these words, I beg to move that the Bill as passed by the Assembly be taken into consideration.

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I rise to oppose this motion. In doing so, I should like to acknowledge in the first instance the moderate terms in which my Honourable friend has commended his motion to the House. But while I make that acknowledgment, while the Honourable gentleman's arguments were on the whole moderate and certainly phrased in the most courteous and temperate manner, they were by no means consistent in that respect with the character of the Bill he presents. I note further, that in selecting the historical rather than the polemical method, he, wisely perhaps, restricted himself to theories and to his own construction of past events. He has dealt very little with the realities and the facts of the present situation. Well, Sir, before I develop my comments on my Honourable friend's arguments, I should like as a preliminary to invite the attention of the House to an interesting fact. The Bill submitted for the consideration of this House differs in two important respects from the Bill which was originally introduced in another place. It omits from the measures proposed to be repealed the Punjab Murderous Outrages Act, and there is a partial mitigation of the original Bill in so far as it affects the Moplah Outrages Act, perhaps, Sir, I should be thankful for small mercies. But I must remind the House that the original mover of the Bill in another place was by no means content with these innovations in his Bill and he announced his intention at the earliest possible date of introducing a Bill in which the brief reprieve of these legislative victims would be very speedily terminated.

Those changes in the original Bill were the result of a little, perhaps belated but not too belated, examination of the provisions of two of the laws in question, the result of some consideration of the conditions against which they were intended to provide, of some calm reflection on the consequences which would result from their repeal. Sir, I wish that examination, that consideration, that reflection had been more general than it was, that it had been extended further and had been bestowed in the degree which they merited on the other laws which still stand in the Schedule. If that course had been taken in another place, if my Honourable friend opposite had taken that course, I believe that he would not have moved his motion and that this Bill would not now be before the House.

Fortunately, however, the wisdom of the framers of our constitution has preserved for us the opportunity of bringing to bear upon this matter a dispassionate scrutiny, a just balance between ideals of jurisprudence and the hard facts of reality, a sense of responsibility in legislation and a statesmanlike regard for the public interest and the public security, and it is the special function and obligation of this House to supply these requisites of wise and prudent legislation.

Now, Sir,—and this has been reflected to a great extent in the Honourable Member's speech—criticism of the laws in question has been mainly directed

either to general considerations on the arbitrary power alleged to be conferred by them on the executive Government and their repugnance to normal canons of jurisprudence or to alleged recommendations made by the Committee on the special laws or to arguments regarding the possibility of their abuse. Sir, I will take these in order. The Honourable Member has urged in general terms that these laws are repugnant to accepted canons of jurisprudence. Now, Sir, I admit that these laws, if literally construed and rigidly administered, undoubtedly confer upon Government the power of committing to custody without the regular form of judicial trial, and I share myself the repugnance commonly expressed to that aspect of them though many of the strictures which have been passed upon them, even from this point of view, require a great deal of qualification. It is only hard necessity which compels us to keep them upon the Statute book. With regard to the character of the necessity, I should say a few words later. Then we come to the recommendations of the Committee. I venture to suggest to the House that the report of that Committee should be taken as a whole and I have been much impressed, having recently read it and re-read it, by the fact that, though the specific recommendations of the Committee were inspired by a very sanguine view of the circumstances, even as they then stood, the Members of the Committee were nevertheless themselves very much impressed by apprehensions for the future. And indeed the ink was hardly dry on their report when we had the Moplah outbreak. That was followed by a recrudescence of revolutionary activities in Bengal and simultaneously with the recrudescence and development of revolutionary activity in Bengal, we discovered the existence of a Communist conspiracy in India, in connection with which we were compelled in the first instance to use this Regulation. The facts of this conspiracy were then submitted to the regular criminal courts and resulted in what is now commonly known as the Cawnpore Communist conspiracy case. The judgment of the High Court in that case will reveal to Honourable Members that what I claim in respect of the very dangerous Communist conspiracy in India is not a thing of the bureaucratic imagination. I hope, Sir, that Honourable Members will very carefully examine the recommendations of this Committee on which my Honourable friend laid so much stress. As I have said, if the reasoning which was employed by that Committee in leading up to their conclusions is carefully examined, it will be found that there are many reservations, many apprehensions for the future, which find no place, no reflection, in the measure which is now before the House.

The Honourable Member has quoted from the writings of the late Lord Morley. We are all familiar with the words of that eminent statesman which seldom fail to be quoted in discussions of this character and I should for my part remind the House of a statement made by Lord Morley which I have already had occasion to quote in this House and which is to the following effect:

"We found"—he is referring to Regulation III of 1918—"in the armoury of weapons of Government a law, and applied it. . . . We should have been perfectly unrepentant of holding the position we do—I am speaking now of the Government of India and myself—if we had not taken that weapon out of the armoury and used it against the evil-doers."

It is alleged that this Regulation—I think these are the words used by my Honourable friend—is archaic, antiquated, and obsolete. I must point out

that it is not more archaic than revolution, that it is not more antiquated than conspiracy, and that it is not more obsolete than assassination

Well, Sir, these are general considerations, and I do most earnestly implore the House to direct their attention rather to the actual facts of the situation. I wish to make it quite clear to the House that the retention of these laws on the Statute-book is due to a very real sense of a very real danger. I invite the attention of the House to the fact already quoted by my Honourable friend that even the Committee whose report he quotes with so much approval were satisfied of the continued necessity of providing for the object of this Regulation in so far as it is expressly declared to be the security of the British dominions against foreign hostility. They were particularly impressed with the dangers of what they call the "inflammable Frontier." They ignored,—and after all, it is easy to be wiser after the event and events have happened since, with regard to which they were necessarily uninformed,—but they did forget, that the North-West Frontier is not the only frontier of India. Very serious, very persistent attempts have been made to introduce into India propaganda and machinations against her peace and against her security. That is not a mere theory. The case to which I have referred gives abundant chapter and verse for that statement. It is not only to the North-West Frontier that our attention must be directed. I believe in the light of later knowledge that the Committee in that respect would have revised their recommendation. There is no doubt that the frontier is specially exposed to the dangers of foreign hostility. But, were it not for the vigilance of our officers, were it not for the legislative weapons which we have in reserve, foreign hostility directed against the peace and security of India would pour in at every port, in the form of subversive propaganda, in the form of incitements to murder and rebellion, and in the concrete form of illicit arms and illicit ammunition. If the Communist danger is considered by any Honourable Member as a thing which can lightly be dismissed, I would invite his attention to the present course of events in China. The disturbed conditions there, more particularly in southern China, are, it is a notorious fact, largely due to Communist activities. Now, is it to be supposed that the events that have happened in China can occur without reactions in India? I am not merely suggesting a speculative probability. It is a fact and we have documentary proof of it, that attempts have been made and are still being made by the Communist elements in China to secure connection with India. There are at the present moment certain Communist emissaries still at large. Honourable Members are probably aware that we have accepted an international obligation to receive and be responsible for our own undesirables—by undesirables I mean persons whose activities are likely to be dangerous to the peace and security of their own or other countries. A certain number of these persons—they are very well known Indian Communist agents—are or were recently in Germany and the German Government applied to us to agree to their removal on the ground that their activities were obnoxious and dangerous to the German State. Well, Sir, we are under an obligation to receive those persons on these shores. Are we to allow them to carry out in India activities which in Germany were found to be dangerous to the State, and will this House seriously propose to deprive Government of the means of dealing with persons of this type? Now, Sir, that is a danger, a very real danger. There is another

danger The Honourable Member somewhat light-heartedly stated that he was not concerned with conspiracy in Bengal He did indeed allege that the action taken by Government with regard to the conspiracy in Bengal was directed against the Swaraj Party, and that its object was the suppression of legitimate constitutional agitation Both those allegations I must most emphatically deny The action taken in Bengal under Regulation III of 1818, the action taken by the Governor General in promulgating an Ordinance, and the action taken subsequently in passing the Criminal Law Amendment Act was not directed against either the Swaraj Party or against any other form of constitutional agitation in India It was directed against a network of terrorist conspiracies, and I think that if we clear our minds of a great deal of prejudice and a great deal of irrelevant theory, there will be found very few persons who can conscientiously get up and say that the action taken by the Local Government, by the Governor General and by the Government of India has not been fully and amply justified by the results However that may be, I desire to press very strongly upon the House that the existence of revolutionary conspiracy in Bengal is not a danger solely confined to that province It is not reasonable to suppose when we find ramifications as highly organised as those conspiracies in Bengal undoubtedly were organised, that they should be confined to that province alone They are not confined to that province alone Let me remind Honourable Members of the fact which is probably well within their memory as it occurred not very many months ago, that a violent revolutionary pamphlet was found simultaneously at many places in the United Provinces and at many places in the Punjab Let me remind them of the character of that incitement to violence Here is a quotation from it

"This revolutionary party has deliberately abstained itself from entering into this terrorist campaign at the present moment even at the greatest of provocations in the form of outrages committed on their sisters and mothers by the agency of a foreign government, simply because the party is waiting to deliver the final blow But when expediency will demand it the party will unhesitatingly enter into a desperate campaign of terrorism, when the life of every officer and individual who will be helping the foreign rulers in any way will be made intolerable, be he Indian or European, high or low"

That pamphlet was distributed simultaneously in a very large number of centres in the United Provinces and the Punjab That does indicate at any rate the probability of an extension of the network of revolutionary conspiracy outside Bengal Honourable Members have seen the recent report of a daring outrage—the robbery of a train in the United Provinces I must be extremely careful in referring to the circumstances of that offence because the matter is now under investigation, but they give us very good ground for supposing that it is the work of revolutionaries Now, there are other indications of that kind which I should like to be in a position to lay before the House but I cannot for obvious reasons do so The danger of the extension of this evil outside Bengal, the area where the Bengal Criminal Law Amendment Act is in operation, is a very real one, and that reason alone should in my opinion constitute a sound ground for the retention of Regulation III upon the Statute-book.

I will not dwell on the alleged abuse, actual or potential of the law because I frankly admit that my Honourable friend did not base his case very seriously on either. I heard it said in another place that the Committee

which was appointed by the Bengal Government to examine cases of action taken under the Regulation and under the war legislation found that five per cent of those persons were innocent. I venture to say that this is very typical of the loose kind of criticism which has been directed against the administration of this Regulation. This particular statement is entirely remote from the facts. What the Becheroff and Chandavarkar Committee actually said was this:

"The total number of cases examined and advised on by us is 806. Of these 100 relate to State prisoners dealt with under Regulation III of 1818, 702 to internees under the Defence of India Act, and four to persons dealt with under the Indian Ingress Ordinance. In six of the total number of cases examined by us, we have advised Government that there are not sufficient grounds, in our opinion, for believing that the parties concerned have acted in a manner prejudicial to the public safety or the defence of British India, and that therefore, they should be unconditionally released."

I invite the special attention of the House to the language employed in the last sentence "prejudicial to the public safety or the defence of British India." This is language drawn from the rules under the Defence of India Act, and it is therefore a reasonable presumption that the cases referred to by the Committee were cases of action taken under these rules. If that is so, then it follows that of the 100 cases under Regulation III of 1818 which were examined, there was not a single case in which the Committee found that the action of Government had not been fully justified. Then, Sir, the Honourable Member referred to the occurrences in Malabar. He asked whether Government found that they required the use of the Regulation in that case. I am astonished that an argument of that kind should be laid before the House by an Honourable Member from the Madras Presidency. The fact is, as has been explained on more than one occasion, that the Madras Regulation was used, and used with great effect, in connection with the Malabar rebellion. Let me remind the House what the circumstances were. It is well known that large numbers of Hindus were attacked by Moplahs. Outrages of the most dreadful character were perpetrated and large numbers of unoffending persons were forcibly converted to Islam. A considerable proportion of the perpetrators of these crimes were sentenced, but when the time for their sentences was due to expire, a very serious question arose as to whether they were to be allowed to return to the scene of their former outrages. I ask Honourable Members to endeavour to imagine what the situation was. During the period which had elapsed since the rebellion, every endeavour had been made by Government to promote reconstruction. The villages were beginning to come back to the normal state of things once more and the victims of these horrible outrages were beginning to receive at least some alleviation from time. The return of the original perpetrators of these crimes would have been fatal to that process of reconstruction. It would have been fatal also for those communities who were so slowly and so pitifully recovering from their disasters that the persons originally responsible for their troubles should be returned to their midst. Therefore the Government of Madras decided that the authors of these crimes should not be allowed to return to their homes. They were sent under the most lenient form of restraint possible to another part of the Presidency under the powers conferred by the Madras Regulation. The results have been entirely justified and yet the Honourable Member from Madras tells us that the Madras Government

did not find the Madras Regulation of any avail in connection with the Malabar rebellion

THE HONOURABLE MR V RAMADAS PANTULU May I explain, Sir. What I said was that the absence of the Regulation on the Statute-book would not have handicapped them I did not say that they did not use it My question is Why did they use it There was no necessity for it

THE HONOURABLE MR J CRERAR I do not quite appreciate the Honourable Member's point He says that the absence of this Regulation on the Statute book would not have handicapped the Madras Government I have already explained that the Madras Government used that Regulation effectively in securing an object which could not have been attained by any other conceivable legal means I now return to my original point I have acknowledged the moderation of the Honourable Member's language but I still return to the point that his Bill is not a moderate Bill

It appears to me that neither his arguments nor mine have yet penetrated into the root of the matter The real issue before the House is one which must be entered on with complete sincerity and candour

The question has been debated on innumerable occasions, and on a careful examination of these discussions I have been compelled to the conclusion that the real object of this Bill is not to improve the Statute-book Its object is to impair the power and weaken the responsibility of the Government which is at present charged with the duty, and burdened with the obligation, of maintaining peace and order in this country—the most elementary conditions of any form of civilised life, the most necessary conditions of any kind of political progress That power and responsibility, that duty and obligation, are charges which must be accepted and vindicated not more by the present Government than by any conceivable future Government of India No honest Government whether in its own interest or in the interest of the peoples committed to its charge or in the interest of its successors in title and liability, can possibly be met with an aggression of this character and omit to repel it by every means in its power

THE HONOURABLE DR DWARKANATH MITTER (West Bengal Non-Muhummadan) Sir, I beg to move the following amendment to the original Resolution —

12 Noon

“That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee consisting of the Honourable the Law Member, the Honourable Mr Crerar, the Honourable Sir Maneckji Byramji Dadabhoi, the Honourable Sir Deva Prasad Sarbadhikary, the Honourable Mr Karandikar, the Honourable Sayid Raza Ali, the Honourable Mr Ramadas Pantulu, the Honourable Mr K C Roy, and the mover, and that the presence of five of the Members of the Committee shall be necessary to constitute a quorum ”

Sir, not many words are needed from me in order to commend this Resolution to the acceptance of the House You have heard the Honourable Mr Crerar say that the Report of the Repressive Laws Committee should be examined as a whole That is a report which after a good deal of consideration the Committee arrived at, after a long discussion among the Members themselves, and it is not possible that in this House we can in the sitting of a day or a few hours examine the recommendations of that Committee In asking for the acceptance of this amendment I am not asking the Government to commit themselves to any principle underlying the Bill My object, Sir, is



to focus the attention of the House on the principle of the Bill and that is a function which I submit, Sir, the Select Committee can very well discharge. There is an apprehension in some quarters that when a matter is referred to a Select Committee, it means that the principle of the Bill is accepted. I submit, Sir, that that is not so, if I may just refer in this connection to the procedure of the House of Commons as stated in a book written by Mr Joseph Redlich with an introduction by Sir Courtenay Ilbert who for some time was the Law Member of the Government of India. He states at page 187 of volume II of that book that—

“the task of a Select Committee is accordingly investigation and nothing more. It stands in the sharpest contrast to the work of a Committee of the whole House, while such Committees are indirect aids to legislation inasmuch as they arrange the material upon which the legislative decisions are effectually based and they help to focus the ideas of the House upon matters of principle or to work out the technical details of some legislative course of action the principle of which has been accepted.”

Therefore I want to make it clear that by asking for the acceptance of this amendment I am not asking the Government or any Members of the House to commit themselves to the principle underlying this Bill. I do not see much strength in the reasoning of my Honourable and learned friend Mr Ramadas that the Bill has been passed by the majority of the Legislative Assembly. The major section of the Assembly are not tolerant of the opinions of the Members of this House, and I do not see why we should not treat their opinions with the same respect with which they treat our opinions. I am therefore prepared to ask the attention of the Honourable Members of this House to this point that there should be an independent examination of the whole question by a Select Committee, a representative Select Committee, consisting of the Members of Government and of the representatives of the several provinces. The question is one, Sir, of very great importance. The question is whether the ancient Regulations of the different Provinces—the Bengal Regulation of 1818 and the similar Regulations in Madras and Bombay—should still be retained on the Statute-book. Of course I have an open mind on the question. If a Committee after an examination of the Report of the Repressive Laws Committee are satisfied that there is no need for their repeal, the Committee will certainly be able to report that to this House. If reference to Select Committee does not mean that the principle is accepted, I do not see, Sir, any harm in a Select Committee meeting and considering the question whether, having regard to the conditions which are prevalent in the different provinces and after collecting the opinions of Local Governments—I do not know if these opinions have yet been collected—there is need for their repeal. It may also be, as I find from the proceedings of the Legislative Assembly of the 19th March 1925, that the Honourable Sir Alexander Muddiman was prepared to accept some of the amendments which were proposed in the course of the discussion on this Bill, that the Government may reconsider the matter afresh on the report of the Select Committee now proposed. There was an amendment which was proposed by Mr Rangachariar, one of the Members of the Legislative Assembly, and I find that the Government were prepared to accept the amendment with regard to the Bengal Regulation.

THE HONOURABLE MR J CRERAR. I must point out that the Honourable the Home Member expressed a certain view with regard to these amendments but at the same time pointed out very clearly that he was unalterably opposed to the Bill itself.

THE HONOURABLE DR DWARKANATH MITTER These are all matters which, as the Honourable Mr Crerar will realize, may be discussed in the Select Committee, and if the Select Committee ultimately arrives at the decision that there is no need for repeal, they will so report to this House. I am only asking for an examination of the whole question by a Committee consisting of representative Members—an examination which cannot be done in one sitting or in a few hours. These are the reasons, Sir, which make me submit to the House that the Committee which I have suggested is a representative one. We should get on behalf of the Government the Honourable the Law Member the Honourable Mr Crerar, the Honourable Sir Maneckji Dadabhoi, representing the Central Provinces, the Honourable Dr Sir Deva Prasad Sarvadhikary and myself, representing Bengal, the Honourable Mr Karandikar representing the Bombay Presidency, the Honourable Saiyid Raza Ali representing the United Provinces, the Honourable Mr Ramadas representing the Madras Presidency, and the Honourable Mr K C Roy representing the Punjab. (Laughter) I submit, Sir, that the Committee is a representative one. I am also quite amenable to any suggestion, if it is made, with regard to the addition of any other Honourable Members to this Committee. I might suggest, for example, as this is a question affecting the Frontier also, that if the Honourable Mr Thompson is willing, his name might also be added to this Committee.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General) Sir, I will only confine myself just at present to the amendment according to your ruling. I oppose this amendment. I oppose it because it will commit the House to the principle of the Bill and secondly, as I shall point out presently, it will serve no useful purpose. You, Sir, have already referred to the Parliamentary practice to which reference has been made by my friend the Honourable Dr Dwarkanath Mitter, and I shall therefore not take up the time of the Council by any further reference to that matter. This Bill before us is of a very important nature and character. It touches a very broad principle. The root of the Bill consists of many ramifications which have to be carefully considered. I for one would not like to serve on this Committee, because by my acquiescence to serve on this Committee, I would be leading the House to believe that I am inclined in any way to accept this Bill with some modifications that may be proposed and hurriedly considered by the Select Committee. You, Sir, have explained fully that when a Bill is referred to a Select Committee the House accepts the principle of the measure. I understand, Sir, that the same ruling was given in the other House by Sir Frederick Whyte and I do not desire that any departure should be made from the established practice in this direction and that in future there should remain no doubt on the subject.

Now, as regards the Bill itself, as regards the suggestion for the Select Committee, assuming that we go to a Select Committee and consider the measure, has my Honourable friend any guarantee that the other House is going to accept the amendments proposed by this House?

THE HONOURABLE MR G A NATESAN (Madras Nominated Non-Official) Why do you want the guarantee?

THE HONOURABLE SIR MANECKJI DADABHOY Probably you have not read the proceedings of the other House, but on two occasions Sir

Alexander Muddiman in order to meet that Assembly proposed two most reasonable amendments and the Assembly contemptuously disregarded them.

THE HONOURABLE SIR DILPA PRASAD SARVADHAKARY (West Bengal Non-Muhammadin) The remedy and result would be quite another if that course was followed here.

THE HONOURABLE SIR MANECKJI DADABHOY Well, there is every reason for the presumption that that course would be again followed. The very fact that a large majority in the Assembly refused even to consider the amendments that were proposed by Sir Alexander Muddiman on behalf of the Government and to which a large body of other independent members might have also given their support, shows conclusively the temper of that Assembly, and I therefore say that it would serve absolutely no useful purpose to go to a Select Committee and ask them to modify the Bill to any extent or even to re-consider it. Further, what is there to prevent my Honourable colleague Dr Dwarkanath Mitter if his real object is, and as I understand the object of many Members is, to make some necessary modifications in the Bengal Regulations and other repressive Acts to bring in a separate amending Bill? Don't you think that could be done more appropriately by first rejecting this Bill and then bringing in an amending Bill? If my friend Dr Mitter introduces a Bill to make any alterations or modifications in the Regulations or the Seditious Meetings Act or section 12 of the Punjab Murderous Outrages Act I am sure this Council will be exceedingly pleased to consider that Bill on its own merits. I personally think that it would be confusing the issue before this Council if we allow any amendments to be passed at this stage. But if Honourable Members here desire that we should make the change, and the change will be a necessary change in those Regulations, I am quite agreeable that we should consider the matter, but that can be done more efficiently and appropriately by a separate Bill which may be brought by any non-official Member of this Council, and the whole question may then be thoroughly threshed out. I submit that this view of mine will commend itself to Honourable Members here. Honourable Members should bear in mind also, when contemplating a Select Committee, that this Council has now 13 or 14 days of existence left, our life is limited, we have got only 14 working days. I do not think it will be possible within that short time to consider carefully all the amendments which some of my Honourable colleagues here may suggest and that we shall have time enough to pass this Bill in a modified way and send it to the Assembly. I also think that it would not be fair to our successors in office that on the eve of our extinction we should commit that Council, our successors, to any policy which may be dictated by this Council. I think it would be more advantageous, it would be more practical, and it will be a prudent course that we at present dispose of the Bill, either pass it or reject it, and that any further amendments that may be suggested may be considered by way of a separate Bill. Sir, I therefore oppose this amendment.

THE HONOURABLE MR K C ROY Frankly speaking, Sir, I dislike the Bill, and it is precisely on that ground that I suggest that the Select Committee should be appointed. If the House agrees to the appointment of a Select Committee, it will be able to reshape the Bill and possibly make it acceptable to the Honourable Leader of the House and to the Honourable Mr Crerar. May I remind the House that this Bill was carried through the



I see nothing there which suggests that these enactments should be examined, nothing that they should be modified, still less that any part of them should be retained. Further, if we are to seek for more light on the intention and the principle of this Bill, let us come to the Statement of Objects and Reasons. It says

"The ordinary criminal law of the land is sufficient to deal with persons guilty of offences against the State."

The ordinary criminal law of the land. I submit, therefore, that if this Bill did go to a Select Committee, it would not be open to that Select Committee to equip Government, if they thought fit, with special powers outside the ordinary criminal law of the land.

THE HONOURABLE SAYID RAZA ALI. On a point of order, Sir. I believe it will be open to the Select Committee to modify instead of repealing the various Acts which are mentioned in the Schedule?

THE HONOURABLE THE PRESIDENT. I should be sorry to give a definite ruling on that point at once. The Honourable Member will readily recognise that if I stated anything on that point now I should be seriously prejudicing the rights of the Chairman of the Select Committee to deal with points of order arising before him should the Bill go to a Select Committee.

THE HONOURABLE MR J CRERAR. I think, Sir, I am at least entitled to infer from your ruling some considerable doubt whether the Select Committee could have the very wide latitude which my Honourable and learned friend supposes they could have. But that is not precisely my point. My point is that if Government accept this amendment they are committed to the principle of a measure which rests not on modification or reconstruction, but on repeal and of which the original mover in the course of the Statement of Objects and Reasons underlying his Bill, expressly says in the clearest and the most unquestionable terms that the ordinary law of the land is sufficient to deal with persons guilty of offences against the State. That, Sir, is really the substance of my position. If it were possible for me to meet the attitude which I very warmly acknowledge, the attitude that has been expressed in the speeches of Honourable Members who have supported this motion, the recognition by my Honourable friend of the manner in which Government have, as a matter of fact, exercised their powers, the general recognition that having regard to the responsibilities of Government, having regard to the dangers which I have pointed out and having regard to all the other realities of the case, Government ought to be equipped with such special powers as they can substantiate a case for nothing would give me greater pleasure and gratification than to be in a position to respond to that appeal. I am not in a position to respond to that appeal because the motion made by my Honourable friend and the consequential amendment of my Honourable friend Dr Mitter would necessarily commit Government to a position entirely inconsistent not only with the general lines of the argument which I have urged in my reply to the Honourable Mover, but also with the considerations which I have now the honour to place before the House.

THE HONOURABLE MR G S KHAPARDE (Berar Nominated Non-Official). Sir, I wish to support this Bill. It may be asked why I opposed

the amendments but still support the Bill. I reply that I am in sympathy with the repealing of all these measures, but I am not in sympathy with delaying measures or with the dilatory proposals that were made. I oppose dilatory measures, and I am glad I have now the opportunity of speaking on the measure itself. I will not indicate my personal inconvenience because that is a matter of small importance, nor dwell upon personal matters. With your leave, I shall take the concluding arguments that were urged by my Honourable friend, Mr. Crerar, and we shall see how far these arguments are correct or can stand. The first argument was—and here let us begin with this admission, as in courts we would like the admission of the opposite party—there is one admission here, and that admission is that these laws really do not represent the ideals of jurisprudence. He admitted that fact, but he said that the necessities of the situation are such that we are compelled to have these measures. Yet about those necessities I shall speak later, but at present I thank him for having made an admission that there are not laws that jurisprudence supports, nor are these laws such as English history would support. I should like to see a measure of this kind being introduced in England and then we would hear more about it. As a matter of fact laws that transgress the ordinary and the fundamental principles of jurisprudence really stand condemned by themselves. If it is not necessary to use them, well, drop them as fast as you possibly can. When I say, “Drop them at once”, I remember the arguments that were advanced when the report of the Repressive Laws Committee was being written—and the happenings, such as Chauri Chaura and all these things which were represented by my Honourable friend on my right. I say it is all right, but at the time when I am speaking, there is no such event known in India. Whatever may have been the reasons at that time, there is no such thing existing now, and therefore I say that the sooner you drop these laws, the better. Constantly keeping up the whip in hand and constantly indulging in threats only provoke opposition. It is much better to drop these harsh measures, and you will then see that the people against whom your action is directed will drop all that they are doing. I know that hard things have been said by others, and I am sorry that they have been said, but I am also equally certain that if you do not hold this sword of Damocles over their heads, they would not say all these things. The world is like a mirror. If you look and laugh, the world laughs back; if you frown, the world will frown; if you show your fist, there is the same picture reflected. Therefore, let us not always have these laws hanging over the heads of the people, showing how strong you are and always threatening to beat the people, and showing that the Government are strong enough and will repress all these things. I submit that retaining these laws only antagonizes the people. That is the unfortunate thing, but a fundamental thing in human nature. If I show force, then the reply to it is force. But if I try to persuade people and succeed in persuading the people, there is no bitterness left behind. I do not think it is paying a great compliment to the British Government to say that although they have been here two centuries, yet the country is seething with sedition, that there are people who will run at each other's throats, if these laws are repealed, and that this will happen and that that will happen. I shall only ask the question, ‘What have you been doing the last 200 years if you have not civilised the country to this extent?’ This is not a country

inhabited by barbarians, it is a country inhabited by civilised Hindus, civilised Muhammadans, civilised Parsis. We are not barbarians or primitive people roaming about forests and if 200 years of administration have not improved us to this extent, what shall we say? I think we *have* been improved, and those who say that we shall run at each other's throats pay a very very poor compliment indeed to the British Government on the splendid service that the British have done and the splendid service they are doing in India. You ignore the good things they have done. Don't be afraid of it. There may have been indiscretions done. Even in 1921 there may have been wrong things done, but that does not mean that that will happen again in 1925. These are popular waves of agitation, waves of excitement, and these waves do come. They pass away also very soon. If they do not pass away, they would be a menace, but my experience of life is that all these things come temporarily, they catch the fancy of the people, people talk a great deal about them, and then they forget all about them. And the evidence of this is to be found in the circumstance, as some of my friends have been saying, that there is a different temper prevailing, that there is not that amount of bitterness in the other House also that there used to be, and my Honourable friend, Mr Karandikar, rightly I think resented some of these observations that were made against the other House.

THE HONOURABLE SIR MANECKJI DADABHOY Sir, may I rise to make a personal explanation? Both the Honourable Mr Karandikar and the Honourable Mr Khaparde have mentioned that I made observations against Swarajists in the other House. That statement is wholly untrue. What I said was this, which I will repeat again for the information of Honourable Members. The Honourable Mr Ramadas in his opening speech said .

THE HONOURABLE THE PRESIDENT Will the Honourable Member please repeat what he said, and not refer to the Honourable Mr Ramadas's speech?

THE HONOURABLE SIR MANECKJI DADABHOY It was stated in his opening speech.

THE HONOURABLE THE PRESIDENT Will the Honourable Member say what he said?

THE HONOURABLE SIR MANECKJI DADABHOY What I said, Sir, was that it was true that most of the Independents or rather that some of the Independents in the Assembly supported the Bill, and I said that that was a perfectly true statement. But I said that a close study of the proceedings of that House convinced me that many of these Independents who called themselves Independents were in their heart of hearts Swarajists, and they traded under a different name. I said that not by way of disparagement.

THE HONOURABLE THE PRESIDENT The Honourable Mr Khaparde

THE HONOURABLE MR G S KHAPARDE I am very glad the Honourable gentleman on my right has admitted what he said, and when he said that they were Swarajists at heart, I believe he did not mean it as a compliment but meant something else. To say that someone is something but he is a Swarajist at heart means that Swarajists have got a bad tradition, and you cannot get away from that. That is the ordinary way. You remember in the

play of Othello there is a man called Iago Brabantis, the father of Desdemona, appears on the balcony and says, 'why do you appear before my house?' So this man says, "Sir, you are a councillor" That means, that "you are a fool" This has been interpreted by commentators, and whoever read that part of the play knows it So to say that "you are a councillor" means something different, and to say that so and so is a Swarajist at heart means that he is an anarchist at heart (*The Honourable Mr R P Karandikar* "No, not an anarchist") You put them higher I put them a little lower As I was saying, there are people who give you terrible pictures of events, which they think are bound to happen as a consequence of the repeal of these Acts I have listened to that eloquent picture which was portrayed before me of the cruelties that will be perpetrated It is all very well poetically As a matter of fact, it is not true The world existed and India existed before these laws were enacted and I believe will exist after these laws are taken away, more especially when we have had so much good training in the art of government, in debates and assemblies and other things All these things will not be lost in a day There is nothing of this kind going on at present when I am speaking and asking the Council to repeal these laws There is no threat It was mentioned that Bolsheviks have come, but they are not within my boundary anyhow There is a strong Government between me and the Bolsheviks still So these are all imaginary things I will just give you a small story, not a long one A man was lying down It so happened that a rat jumped over him He said to himself "Oh, to-day the mouse has jumped over me, to-morrow the cat following the rat will jump over me, then the dog following the cat will jump over me, then the man riding the horse will jump over me and then the carriage will come over me and I shall be crushed" Then he began to cry This is something like what we have heard. I say, have a little courage, have a little patience and have strength The British Government have been here for some time and they have done very good work They have got the nerve, they have got the power and therefore there is no fear like this Do not magnify it The fact of the matter is, as was mentioned, that it goes against the grain of every Englishman to have a man condemned unheard as it is called If I have understood English history properly, then I can say that it is very difficult to convince an Englishman that a man should be or can be convicted unheard The case to-day is still worse The man is not only convicted unheard but is even carried away from us and is detained in a separate place from where you get no news The whole thing is terrible and goes against the grain of every Englishman I know that at Home these laws will not be supported In England unfortunately false ideas have been kept up which go to show that India is seething with sedition. I do not say that these ideas have been kept up intentionally but very likely unconsciously They have been kept up because sensation-mongering is one of the defects of the present day newspapers The present day journalism indulges a great deal in such sensations People are willing to read these sensations Probably they do not believe in them I do not think, if votes were taken, you would get many votes in favour of detention without trial, nor would you get many votes for the argument that has been put forward, namely, that the Judges have examined all the cases that were submitted to them If I remember aright, there were some 90 cases and the Judges did not disagree



even with one of them I wish that argument had not been used I say this for this reason How can you expect a musician to make you music without his instruments and a painter to paint a picture without his brushes? Similarly a Judge must have both sides of the case before him if he is to decide the case properly No Judge can decide unless he has both parties before him and not only the parties but the ablest lawyers on both sides. It is only when these lawyers argue the matter out that a Judge can come to a right conclusion. You say that these cases were approved by the Judges, but may I know what evidence they had before them?

THE HONOURABLE DR SIR DEVA PRASAD SARVADHIKARY  
Evidence!

THE HONOURABLE MR G S KHAPARDE Evidence, of course The Judges will ask for evidence before they believe you They do not take you at your word They always want evidence before them However, we shall pass on further

The next argument that was put was that even Judges go wrong after they have had both the parties before them and after the cases were argued by the parties Therefore, the inference drawn by my Honourable friend to the right was that the Executive Government should be armed with powers to do so He contended that, what is the good of lawyers when the Judges also go wrong? Why not, therefore, let the Executive Government go wrong? That is a wild argument and an unsound argument Truth is difficult to discover and even Judges who are trained to weigh evidence and used to dissect evidence sometimes go wrong? Then how much more would the Executive Government go wrong? The Executive Government will decide matters upon the reports submitted to them by these subordinate officers Therefore, I say, the conclusion is that in order to do justice we should hedge the Executive Government round with all possible difficulties and make it difficult for them to come to a hasty conclusion That is my conclusion It would not be the right inference that because the Judges go wrong therefore the Executive Government should get a sort of free ticket to do what they like In cases of emergency the Executive Government should have extraordinary powers But as soon as this emergency has disappeared, the ordinary judicial law should come into force Therefore this trial or this condemnation without trial ought to go Such things ought to be very strictly limited Unfortunately I have not brought my book, but I think the Repressive Laws Committee said that this Regulation III of 1818 should be confined to the borders and to the frontiers and should not be brought into provinces, and so on These are all the recommendations that were made by the Repressive Laws Committee Therefore, I submit that the arguments that were first urged that the cases were submitted to the Judges do not carry the matter very far. It does not make any difference that the Bill first appeared in one shape and then it was changed We are considering the Bill as it was passed by the Assembly So, its past history is, to a great extent, irrelevant I quite appreciate the argument that we may have a request from Germany that some of our bad characters have crossed our borders and that they should be turned back But Germans are very wise and good chaps after all But I say if we have got bad characters we know how to deal with them We

have got enough provisions to deal with them in the Indian Penal Code and in the Criminal Procedure Code. If there are very very bad characters we can put them before the court and get them hanged. There is nothing much about it. Then they say that the Bolsheviks have come in. That is an old story. It is no good magnifying fears in that way. It is only good for timid people but not for strong people, who do not indulge in that sort of thing. I take great objection to that part of Mr. Crerar's speech where he said that people who talk about repealing these laws, really wish to weaken the Executive Government. I think he said so. I took a note of it. I submit this is not so. At any rate, you cannot accuse the Right Honourable Srinivasa Sastri of devising a measure to weaken the Government and to strengthen the Swarajist. That sort of accusation was not made then and I do not think anybody will make it now.

And even if there is such a person who makes that accusation, I shall read to him the last words that the Right Honourable Srinivasa Sastri spoke :

“ One word more ”

That is, on the 14th of February 1921 when we sat for the first time to transact business. As I said, he said :

“ One word more. In giving such liberties as may seem suitable, in taking such steps as may seem advisable, let there be no reservations to the extent that you wish to go. Go ahead bravely and not haltingly. It is the most essential condition of success in this great work. But has no buts, let there not be a superabundance of ifs. So working we certainly will do what no other people in the world have done, achieve full constitutional liberty within the British Empire by entirely peaceful and constitutional methods ”

Here perhaps at that time when he said these words he imagined that some people would charge him with weakening the Executive Government, and he therefore forestalled them by giving utterance to these words. One of the conditions of success, either in battle or argument or in anything else, is that you must have confidence in yourself and you must not believe that such a thing will happen. That will make you timid and you will not be able to argue as well nor fight as well as you would otherwise do. If you wish to succeed, if we want to have a good and strong Government, that Government must also be a confident Government, not afraid every minute of meeting a ghost round the corner or meeting a bad man or a seditionist. There is no use being timid in a matter of this kind. There is no need to tell it to this House in which there are trained and educated people present. Even wild beasts can be trained only by your own confidence. If you get into the cage and are afraid, the tiger will eat you. If you go in with confidence and show the tiger your weapon, he will not do that. I therefore say that the better course is not to be timid. We do not want to weaken the Government. It is the other way round. The Right Honourable Srinivasa Sastri said that this is a time when we are beginning a new constitution, a new Assembly, and everything new, and therefore let us begin with good-will on all sides, let us take it for granted that everybody has got the good-will. Do not wait to find out whether a man has the good-will. Go on, and if he displays ill-will there is the Penal Code to deal with him, if he does not, so much the better. It is exactly the way in which a man goes to the tiger's cage. If the tiger does all you want him to do, it is all right, if he does not, you carry a small pistol with you. Something of that kind has to be

done. These are all trained administrators and it is not for a man like me to say how the administration has to be carried on, but the fact is that one must have confidence in himself and should not imagine ghosts coming. He should not imagine things in that way. That is what the Right Honourable Sastri means and that is what I have meant and wish to mean. Let us not be deterred by these fears, by these craven fears. Set them aside and say, "I am generous with you, I repeal all these laws. I hope you will not compel me to revive them, you will not compel me to go back on that. If you do, take care what will happen. But I hope you will behave yourself." And nothing will go wrong. After all is said, what is to be done? Nothing at all. There is nobody to be threatened. And as my friends have said, even the poor Swarajists who were so bad are showing a good front and coming round, coming round to responsive co-operation. I am very glad to hear that. It is very good news to me. I am pleased with it. I say that this Bill should be passed as it is, and if within a few months or within a few days things that are threatened do come about, we are always at your disposal. You can pass any laws you like within 24 hours. For the matter of that you have got ready powers of Ordinance at the disposal of His Excellency the Viceroy. No, Council is necessary, no legislation is necessary if the situation arises. Having those powers, having the power of making Ordinances at your disposal, having all that wealth at your disposal, having strength of men at your disposal and having a large army at your disposal, I do not quite understand why you should fight about little Bills. About one Bill, it will do nothing. I am rather amused about it. That Bill is not in force in any part of India. Why not then abolish it? Is it an ornament and is it because you like to say "I have got that Bill, it is very nice", that you want to retain it? Superfluous legislation is a curse. It ought not to be indulged in. Some of our Acts have been taken bodily from English laws, they are a little bit subtle and they carry the matter much further. The person who wants to avoid it goes one better, because he learns things from the laws which we give him. It is no good having superfluous laws, unnecessary laws, antiquated laws. We have no contempt for antiquity. We always think that the more ancient a thing is the better it will be. That is our tradition. The oldest is the best. We do not dislike antiquity. This law was enacted in circumstances which have ceased to exist now. These things were done when the British Government in India was comparatively very small and they had many necessities which do not exist now. And now, the British Empire, I mean the Indo-British Empire, extends from the Himalayas to Cape Comorin and that was not the condition in 1818 when these laws were enacted. With prosperity, with better government, with a larger extent of area, with more civilised people who are used in running the administration, I think it is just as well to get rid of all these laws, antiquated laws, as they are called, and if it becomes necessary to enact those laws, within 24 hours an Ordinance can be issued and within two months of that the Legislature will assemble and you can

THE HONOURABLE THE PRESIDENT I am very loath to interrupt the Honourable Member, but the hour is getting late. (The Honourable Member did not resume his seat) Order, order. (The Honourable Member then resumed his seat) I was saying that I was very loath to interrupt the Honourable Member, but the hour is getting late and I must invite his

attention to the fact that he is indulging in a wearisome repetition of his own arguments, repetition of his own statements

THE HONOURABLE MR G S KHAPARDE I am very sorry, Sir, if I have indulged in repetition, perhaps speaking sometimes I lose my sense of proportion also (Laughter) I was endeavouring to bring forward a few arguments that were left I have finished the first page of my notes There are some more points. I have dealt with the question of these Bolsheviks and all that sort of thing I was speaking about the Act of 1911 which is not in force anywhere, and therefore I said if it is not in force anywhere and there appears to be no inconvenience caused by its not being enforced, it may as well be repealed That was

THE HONOURABLE THE PRESIDENT Order, order This is the third time that the Honourable Member has said that

THE HONOURABLE MR G S KHAPARDE Sometimes, Sir, a thing has to be impressed by repetition However, I shall finish that argument and that argument is that I opposed the motion for the Select Committee, but I support the passing of this Bill, and if necessity arises, which I hope will not arise, fresh legislation can be resorted to, Government have also the power of making Ordinances in their hands With these words, I support the passing of this measure

THE HONOURABLE MR V RAMADAS PANTULU Sir, I intend replying very briefly to the many points that were raised in the course of the debate, and I shall take up as little time of the Council as possible First of all, Sir, I wish to state that I do not owe any apology to anyone nor do I claim the sympathy or indulgence of anyone for having brought this motion before this House I did what I considered to be my duty in asking this House to take into consideration a Bill which was passed by a very large majority of the Legislative Assembly

I make only a very modest request I do not make any extravagant demand. The present stage of my motion is only to request the House to take the Bill into consideration, and we have not come to the stage of its being passed If you agree to this motion, namely, to take the Bill into consideration I believe it will be open to the Honourable Members of this House, who feel that they cannot go the whole hog with me, to press such amendments as they may desire to do Therefore, I earnestly request the House for an opportunity to consider the Bill which was passed by the Assembly I am thankful to the Honourable Mr Crerar for conceding that he himself realised the force of my attack upon these laws as being somewhat archaic and opposed to modern jurisprudence But he claimed to brush aside all notions of modern civilised jurisprudence and juridical ideas in view of what he called certain facts I submit that I do not feel impressed by the facts that he has enumerated as proving the necessity for retaining these repressive laws on the Statute-book. It is not possible for me at this late hour to show that the ordinary law of the country is enough to meet the needs of any situation such as the one he has described in his speech The point however, which was made in the course of this debate, as well as the debate in the other House is that while the ordinary law might possibly cover the offences which these ancient

Regulations were intended to deal with, there may be cases in which evidence may not be forthcoming or it may not be desirable, in public interests, to try the offenders in open courts

That is the chief argument which has been pressed time and again against a repeal of these repressive laws. I submit that that very argument shows the unsoundness of the position taken up by the Government. The Honourable Sir Maneckji Dadabhoy referred to the fact that there were instances in which Judges had gone wrong. If it were so, I say it is an *a fortiori* case in which the Executive tries to deal with so-called offenders upon *ex parte* evidence and upon evidence which the person accused has no chance of explaining or controverting. It *a fortiori* follows that the dangers are greater. If for any matters, other than internal order and peace, Government wanted to retain extraordinary powers the Repressive Laws Committee had shown very clearly what ought to be done. On this matter, I wish to state in answer to my Honourable friend, Sir Maneckji Dadabhoy's statement (that the Repressive Laws Committee did not recommend a repeal of these Regulations) that I emphatically assert that they did recommend a repeal of these Regulations. They made a reservation in favour of certain powers, other than those relating to internal commotion, and in the case of internal commotion they wanted to restrict it to the "inflammable frontier." They suggested that a legal expert might deal with the method in which the reservation may be given effect to, and apparently they meant that suitable legislation might be introduced so far as reserving those powers and the powers which dealt with foreign relations, relations with Native States and the security of British dominions from foreign hostility was concerned. I will only read one sentence from the report of the Committee, which I think will bear out my contention

"The retention of these Acts could in many cases only be defended if it was proved that they were in present circumstances essential to the maintenance of law and order. As it has not been found necessary to resort in the past to these measures save in cases of grave emergency we advocate their immediate repeal."

I have carefully read that paragraph more than once and I submit that it related to all these Acts. I know that there is a separate paragraph which says

"We desire to make it clear that the restrictions which we contemplate in this connection are not penal in character. We are satisfied that they have not been so. The reservation may also involve the retention in a modified form of the State Prisoners' Act of 1858. But this is a matter for legal experts."

Therefore they say that if any extraordinary powers relating to foreign relations and things of that kind have to be reserved it must be by means of legislation undertaken after expert advice. So, I am right in saying that the Government have not given effect to the recommendations of that Committee. If the Government thought that they could themselves make reservations by retaining the enactments *in toto* on the Statute-book there was really no use in appointing such a Committee. If they had any doubt as to how they should proceed, they should have summoned that Committee again and asked them for revised recommendations. The Government have done nothing of the sort. I feel therefore that I am right in saying that Government have gone back on the undertaking which they gave in September 1921.

In justification of the retention of these Statutes, the Honourable Mr. Crerar said that there were many potentialities in the present situation the

dangers of which it was not possible to contemplate, he however enumerated a few of the old dangers, but he added to them a new one. He said that the German Government wanted protection against Indian Communists. I only dread to think of the future of this unhappy country, if among the reasons for which the bureaucracy in this country claims to retain very drastic and repressive laws on the Statute book, they press into service the obligation arising from international complications and the growth and rise of Bolshevism and Communism in European countries. I do not think that the potentialities pointed out by the Honourable Mr. Crcrar are such as to justify the bureaucracy in retaining these powers.

Then, Sir, with regard to the uses to which these laws were put, it is a matter of opinion. Whether those laws were used to suppress legitimate political opinion and agitation or only used for the purposes for which they were intended is a matter largely of opinion and of inference based upon facts. I can assert with some amount of confidence, that a large volume of Indian public opinion thinks that these Acts are being put to such a use. I was present at a conference which was held recently in Bombay, presided over by the Right Honourable V. S. Srinivasa Sastri, in which all parties in the country were represented. I never attended a conference during the last 25 years of my public life which was so representative in character and which discussed matters in so dispassionate a manner as that unity conference did. That conference passed a unanimous resolution that the Bengal Regulation and the subsequent Ordinance were aimed at the Swarajist movement. I have already told you that Mahatma Gandhi, who is never satisfied without sifting the facts very carefully, gave it as his opinion, after deliberation, that the Regulation and the Ordinance were aimed at the Swarajists. Therefore, it is a matter of choice of opinion. If the Honourable Mr. Crcrar is of another opinion we cannot help it, but I may say I voice the contrary opinion which is held by my countrymen, a very large number of my countrymen.

every conceivable form of offence against the State. The Indian Penal Code has a special Chapter dealing exhaustively with offences against the State and my friend has not taken the trouble to point out which sections of these Regulations are intended to cover cases not already covered by the Indian Penal Code.

There is only one remark of the Honourable Mr. Cresser with regard to the Moplah rebellion with which I want to deal. I am sorry that he entirely misunderstood me. I took care to say that the absence of the Regulation would not have handicapped the Government. I know that the Regulation was used very vigorously against the Moplahs and even after the rebellion was suppressed it is being used to deport them to various places like the Andamans, and there is a large volume of opinion against the improper exercise of that Regulation by the Government of Madras. My point was that the rebellion was itself suppressed under martial law and that the Moplah Outrages Act, which is still on the Statute-book and which this Bill specifically saves from repeal, arms the Government with ample powers which they can wield and there is really no power which they cannot wield under that. So it was merely to keep it alive that the older Regulation was used. My point was that there was no necessity to use it.

Finally, I will give a word of personal explanation. My friends Sir Deva Prasad Sarvadikary and Sir Maneckji Dadabhoy have tried to refute that portion of my speech which related to my reference to the electorate. I am afraid they have misunderstood both the letter and the spirit of my remarks. I never asked any Member of this House to vote in fear of the electorate. When I asked you to vote without fear of this mighty British Government, I am the last person to ask you to vote in fear of the electorates. These are the words I used:

"Many of you will have to face your electorates very soon to seek re-election to this Chamber. You cannot do so justly if you do not voice their feelings in this vital matter. The theory that the elected representatives are bound to give expression to their own feelings and convictions and not to those of their constituents is now an exploded one. We have no justification to sit here and vote against the wishes of those who returned us."

I adhere to these words and I do not feel ashamed of them. I say that we are bound to represent the interests of our constituents. That is the point I made. I did not ask you in any manner whatever to regulate your conduct in any fear of the electorate. I am the last man to say that.

In asking you to consider this measure, I am making a very moderate request. I beg to emphasize the fact that the stage of civilisation reached by any nation is judged by outsiders by its laws and I think it will be a grave reflection upon the British Government and their work for a century and a half in this country if they allow these old Regulations to remain on the Statute-book. It would be a sad commentary on the way they governed this country and trained the people for self-government. In the good name of British Government and in the good name of British India I would ask you to allow this motion to be considered.

I am as anxious as everybody else not to weaken the hands of Government and I am convinced that the hands of Government will not be weakened by the repeal of these Regulations. I know that the Government themselves

thought so in 1921 when they whole-heartedly accepted the recommendations of the Repressive Laws Committee and promised to introduce legislation for their repeal as soon as may be. Therefore I do not desire to weaken anybody's hands. It is true that I am averse to leaving in the hands of the Executive extraordinary and dangerous powers in this country for one reason, that is, because the Executive is not responsible to the Legislatures and is not also responsive to public opinion. When the Executive becomes responsible to the Legislatures and responsive to public opinion, there may be more reason for placing in its hands extraordinary powers, because we can regulate the use of these powers and we can have a check upon their improper use. So long as you are not responsible to the Legislature and responsive to public opinion, I do object and most strongly object to the retention of these powers in your hands. Therefore hasten that day when you will give responsible Government to this country and then you may have even greater powers. At the present stage you cannot retain them. If India is to attain liberty, she cannot have the Damocles' Sword of these repressive laws hanging over her head. You cannot ask the people of this country to eke out their existence in perpetual dread of the bureaucracy. This is not a condition of things which will permit the growth of Parliamentary institutions or responsible government which everybody professes to have so much at heart.

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I do not intend to detain the House at any length while I briefly summarise the attitude of Government on the debate. I am sure that both the Honourable and learned gentleman opposite and I must agree that the necessarily divergent points of view which we have laid before the House have received a patient and an impartial hearing the result has certainly been to clarify the issue before the House and my sole purpose is now to make perfectly clear what that issue is. The issue now beyond any question whatsoever is the total and unqualified repeal of the laws standing in the Schedule. It is that and nothing else. My Honourable and learned friend from the United Provinces expressed himself somewhat pathetically as being on the horns of a dilemma. I should like to point out that if the dilemma exists at all, it has only one horn and to escape it, the Honourable gentleman has only to exercise a little moral courage, without any demand whatsoever upon the intellectual agility which at other times he is perfectly capable of displaying. The Honourable Member quoted a Persian proverb enjoining silence on the prudent. Permit me to reply to him with another

*Ta mard sakhun na gufta bashad*  
*aib-o-hunarash nahufta bashad*

I think, Sir, that applies not only to a man when he makes a speech but also to him when he says "Aye" or "No" on a division. Well, Sir, the issue is perfectly clear. My Honourable and learned friend the Mover has made an ingenuous appeal to the House to pass this motion for consideration on the ground that it will then be enabled to amend these laws as it chooses. Permit me to point out that that incorrectly states the case. If the House passes this motion for consideration it will be committed to the principle of this Bill, even more specifically than if it had passed the amendment for reference to a Select Committee.



The issue therefore is perfectly clear My Honourable friend opposite  
5 P.M. says that he reverts to his original proposition that the  
ordinary law of the land is sufficient to deal with all  
the circumstances of the case My complaint is that the Honourable Member  
did not make, nor did any other Honourable Member who spoke on his side  
make, any serious attempt to deal with the true facts of the situation which  
I placed before the House Nor is the present contention in any closer contact  
with the facts The plain fact is that the ordinary law of the land is essentially  
penal and punitive law It is not preventive law and the main purpose of  
the Regulations, the main purpose of the Seditious Meetings Act, is not penal  
but preventive That is the substance of my reply to the Honourable Member's  
point that the existing law is sufficient to meet the case I have only one more  
word to say and that is to refer to the remarks made by my Honourable  
friend Mr Khaparde He dealt with the matter at very considerable length,  
and I was pleased, I was gratified, to draw two inferences from what  
he had to say The first was that he did not take this motion very seriously,  
and the second was that he congratulated himself on the fact that he still had  
a strong Government, as he said himself, subsisting between him and the forces  
of disorder I think that sentiment will be shared by more Honourable  
Members than the Honourable Mr Khaparde, and it is largely under the inspi-  
ration of that sentiment that I should advise them to give their verdict on this  
issue

THE HONOURABLE THE PRESIDENT The question is

"That the Bill to repeal certain special enactments supplementing the ordinary  
criminal law, as passed by the Legislative Assembly, be taken into consideration"

The motion was negatived by 29 votes against 9

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*Tuesday, 15th September 1925*

## CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL

THE HONOURABLE MR V RAMADAS PANTULU (Madras Non-Muhamadan) Sir, I beg to move that the Bill to provide that, when fire-arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given, as passed by the Legislative Assembly be taken into consideration

I will request this House to give a calm and very dispassionate hearing to this motion. The Bill in question is a very humane and absolutely essential piece of legislation. There are in the Statute-books of many civilized countries provisions like those contained in this Bill, regulating the use of fire-arms, Chapter IX of the Criminal Procedure Code, which deals with unlawful assemblies, nowhere specifically mentions the use of fire-arms, though I concede that the word "force" used in the Chapter is in legal parlance comprehensive enough to include the use of fire-arms. There has been a feeling in the country, for a long time, that the use of fire-arms, either by the civil authorities, or the military, should be regulated by Statute and should not be left to the discretion of the Executive and the operation of executive circulars. The potential dangers of the use of fire-arms are so grave that in England and other countries it was considered necessary to regulate their use by law in order to prevent any excessive or wrong use of the power vested in the civil and military authorities. In this country resort to fire-arms is not a very uncommon occurrence and whenever there was a riot very frequently either the police or the military were called upon to open fire. In my experience as a publicist for nearly 25 years, I have found that expression was given to a feeling, by the public, that in many cases, I do not say in all cases, but in many cases there was either an excessive or an improper use of fire arms. I have read newspaper reports of such occurrences and I have also read reports of private inquiries and non-official inquiries conducted with a view to ascertain the truth of the allegations after a riot was suppressed. That feeling came to a head after the Punjab tragedies which culminated in the Jallianwala Bagh massacre. Since then there has been a demand in the country, which has grown in volume almost every day, that something should be done to prevent, if possible, a recurrence of incidents like the massacre in the Jallianwala Bagh and this Bill is the result of efforts made for a long time past to get into the Statute-book some provisions whereby it would be possible to prevent such tragedies.

I shall very briefly trace the history of the present Bill and try to answer as well as I can some of the objections urged against its provisions. I am glad to be able to say, as in the case of the repeal of the repressive laws, in this case also, the initiative came from this House on a Resolution moved by the Right Honourable V. S. Srinivasa Sastri on the 3rd March 1921. The Resolution which he moved was in these terms.

"This Council recommends to the Governor General in Council that the Code of Criminal Procedure and, if necessary, other enactments, be so amended as to secure the following points in the suppression of riots and unlawful assemblies:

3 P.M.

- (i) No fire arms should be used except on the written authority of a Magistrate of the highest class that may be available on the spot,
- (ii) In cases of grave emergency when no Magistrate is available in the neighbourhood, the chief police or military officer present on the spot may, if he considers that the riot or unlawful assembly cannot be suppressed otherwise, employ fire arms, but the onus of proving the emergency and the impossibility of securing the presence of a Magistrate within the proper time shall be on the officer so acting,
- (iii) Before resorting to fire arms, the Magistrate or other civil or military officer responsible shall read or cause to be read a proclamation, both in English and in the local vernacular, similar to that contained in the English Riot Act,
- (iv) Fire-arms shall not be used for one hour after such proclamation has been read unless, in the meantime, the assembly or crowd actually causes serious damage to person or property,
- (v) Before the crowd is actually fired upon, the fullest warning shall be given,
- (vi) The Magistrate or other civil or military officer responsible shall take all reasonable precautions to see that no more injury is inflicted on the crowd or assembly than is absolutely necessary,
- (vii) The sanction of the Governor General in Council should not be a condition precedent to the institution of a criminal prosecution against officers or other persons who have acted illegally in the suppression of riots,
- (viii) Every such prosecution shall be instituted in and triable by the Sessions Court having territorial jurisdiction, with the previous leave of such Court or the High Court of the Province "

As a result of the debate on this Resolution, only two clauses were finally adopted, namely, clause (v) and clause (vi). The other clauses were negatived on divisions which were pressed for by the Government. The Honourable Sir William Vincent, then Home Member, assumed a sympathetic attitude towards some of the clauses and opposed some of the other clauses rather strongly. As a result of this debate, Sir William Vincent introduced in this Council a Bill to amend Chapter IX of the Criminal Procedure Code containing only a single clause with regard to the warning and it was passed in this House sometime in October 1921. That Bill merely said this

"Where under the provisions of this Chapter any person determines to disperse any such assembly by the use of fire arms, such persons shall, before directing that the assembly be fired on, warn the assembly by such means, if any, as may be available at the moment, that unless it disperses forthwith it will be fired on "

After the Bill was passed in this Chamber it was laid on the table of the other House. There, Diwan Bahadur T. Rangachariar tabled a certain number of amendments which were necessary to make the regulations regarding the use

of fire-arms complete and he wanted that the Chapter in the Criminal Procedure Code should be self-contained with regard to regulations as to the use of fire-arms. But for some reason Government did not proceed with the Bill. I guess the reason—there is no official version as to the reason. I believe the fact was that amendments which were not liked by the Government would undoubtedly have been carried by the Assembly, and so I suppose they acted on the principle that “discretion is the better part of valour” and dropped the matter. Then Mr. Rangachariar made a further attempt when the Criminal Procedure Code was sought to be amended. When a Bill to amend certain portions of the Code was on the legislative anvil he tried to introduce these provisions by way of amendment. The amendments were overruled on the ground that they were beyond the scope of the Bill. Finally, he introduced the present Bill in its original form in January 1924 into the Legislative Assembly, and in September 1924 after a prolonged and informing debate it was referred to a very strong Select Committee consisting of a dozen able men and the Honourable the Home Member. The Select Committee had sent up their report sometime in August 1925 and the Bill had undergone maternal changes in the Select Committee and then it was finally passed by the Assembly on the 9th of this month after undergoing further amendments. In the form in which it was passed by the Assembly it is laid on the table of this House. Therefore you will see that this Bill was before the country during the whole lifetime of this Council. It began almost simultaneously with the birth of this Council and it has been there practically to the last day of its existence, and the particular Bill in question has been before the country for nearly two years, and a strong Select Committee sat upon it and considered it very carefully. Therefore there was no undue haste or hurry in this matter, and the persons connected with the genesis of this Bill were the Right Honourable Srinivasa Sastri and Mr. Rangachariar who cannot be said to be actuated by any desire to weaken the hands of the Executive of this country. Of course if a wicked Swarajist was at the bottom of it, my friend opposite might have made a point of it. But I venture to say, Sir, that the gentlemen whose names are so intimately associated with the genesis of this Bill are themselves a guarantee against any such imputation. On a motion for a division it was carried by 58 to 45, and among those who voted for it were men like Sir Purshotamdas Thakurdas, Sir Sivaswamy Aiyer, Diwan Bahadur T. Rangachariar, Diwan Bahadur Ramachandra Rao and others. Therefore my request to you to consider this motion sympathetically and with due regard to the history of this Bill is not an unreasonable one. Further, in commending this Bill to your acceptance, I speak, Sir, with a full sense of responsibility. I am fully alive to the fact that there is no reason to suppose that the Government have any desire to allow their officers to inflict any more injury on a mob or to destroy more human life than is absolutely necessary to avoid a greater danger to the community. I am quite prepared to accept that. I am also willing to concede that an officer who is employed on such a task will not normally do anything that is calculated to destroy human life except to the extent necessary, and I also recognise, Sir, that officers who are expected to take quick and decisive action in emergencies should get all the adequate protection which the law and the State can give to them in the discharge of their public duties. I recognise every one of these positions. But Sir, bearing them in mind as well

As I can, I cannot forget the duty which the State and the Legislature owe to the citizen in safeguarding his rights against the improper exercise or excessive use of the powers vested in the police and the military. The Bill tries to recognise and also to harmonise these conflicting interests, and I think it is a result of very considered judgment upon the subject. I may also state that this Bill does not touch the provisions of the Criminal Procedure Code so far as they relate to the dispersal of unlawful assemblies by the use of any other kind of force except that of fire-arms. The use of *lathi* or bayonets or other weapons for dispersing unlawful assemblies which are contemplated by the provisions of the Criminal Procedure Code are not sought to be touched by this, the use of force in these cases is not sought to be regulated by this Bill. It is in its scope entirely confined to the use of fire-arms. With these preliminary observations as regards the history and the scope of this Bill, I will now proceed to deal very briefly with the various clauses of this Bill. It is placed on the table for your perusal and I would earnestly request your attention to the clauses, or rather to the sub-clauses of clause 2.

THE HONOURABLE THE PRESIDENT I must remind the Honourable Member that at this stage he will only be in order in referring to the details of the Bill in so far as such reference is necessary to explain the principle of the Bill. Beyond that he should not go now.

THE HONOURABLE MR V RAMADAS PANTULU I was not proposing to read the clause, Sir, but I wanted to mention that it embodied four principles. Firstly, in order to disperse an unlawful assembly, fire-arms should be used as a last resort, and only when it is unavoidable. That is the first principle which the Bill embodies. There is a proviso which I will explain later. The second principle is that in all cases where fire-arms are used to disperse an unlawful assembly, warning should be given to the assembly. That is the second principle. The third is that as soon as an unlawful assembly is dispersed by use of fire-arms, the person who authorises the firing should make a full report of the circumstances which led to the use of fire-arms. And the fourth and the last principle is that a person injured by the firing or if he is killed his specified near relations shall have freedom to complain and take legal action against unlawful exercise of power. These are the four principles which this Bill embodies. I shall very briefly deal with each of these four principles in moving that the Bill embodying them be taken into consideration.

The first principle is that fire-arms should be used as a last resort. The reasons for this are to my mind very obvious. Fire-arms being the most deadly weapons whose use is attended with grave danger even to innocent people who are near and round about a riotous mob, their use should be the last expedient. Again, the second reason is that there is always the temptation to persons engaged in suppressing riots and in dispersing riotous mobs to do it as quickly as possible, and with as little risk to themselves as possible by the use of fire-arms although it may not be absolutely necessary, as other modes of dispersal will be slightly more risky to themselves, but calculated to cause less bloodshed and are less risky to the community. Especially when the

officer employed in doing this duty is not a man of very great nerve, he may be tempted to use fire-arms in order to save himself and the men under his command and quickly to get over the trouble and impending danger, that will be always a temptation. Then, thirdly, there are unfortunately some officers in India who believe that a little extra blood may be shed in order to prevent future riots, to produce a moral effect and to make an example to others. It is now well known from the contents of the Hunter Committee report and from other records that General Dyer himself acted upon this principle. I do not now propose to quote from his evidence which I have got before me, but he himself admitted that his immediate object was not to disperse the assembly but to produce a sudden and striking moral effect by an exhibition of force, by firing till his ammunition was exhausted. I have read the judgment of Justice McCardie in that famous trial, *O'Dwyer v Sankaran Nair*, in which a shocking revelation is made that several military officers in this country approved of the action of General Dyer. Therefore my fears are not merely imaginary, that people who consider that striking and sudden effect should be produced by using fire-arms, are still to be found in India. I am thankful to His Excellency the Commander-in-Chief who the other day spoke in the other House and assured us that the soldiers in India are not actuated by any such desire and that they are as human as any other citizens. I am fully willing to accept His Excellency's assurance and I am also glad to recognise the fact that the Government of India dissociated themselves from the theory that General Dyer propounded, and the Resolution of the Government of India which followed the publication of the Hunter Report has also showed us that at any rate that is not the principle the Government of India propose to adopt in this country. I am thankful for these. But nevertheless there are well grounded fears entertained by my countrymen that the Jallianwala Bagh incident is not the last word in the episodes in this country. Therefore, it is the duty of the law to protect the people from recurrences of such misdeeds. However well meaning the officers may be, it is but right that we should have safeguarding provisions. It is, I submit, considerations of this kind that induced great English lawyers to lay down that the use of fire-arms shall always be resorted to as the very last expedient. I shall only read one sentence from the famous report of the three English lawyers in that *locus classicus* known as the Ackton Hall Colliery dispute. Lord Bowen, Sir Albert Rolit and Lord Haldane said in their report on the Featherstone riots —

“A soldier can only act by using his arms. The weapons he carries are death, they cannot be employed at all without danger to life and limb and in these days of improved rifle and perfected ammunition, without some risk of injuring distant and possibly innocent bystanders. To call for assistance against rioters from those who can only interfere and under such grave conditions ought of course to be the *last expedient* of the civil authorities.”

Sir, I lay stress upon the last words that the use of fire arms should be the last expedient of the civil authorities. I am also told that there are certain executive instructions issued to officers that force should be resorted to generally only as a last expedient, though it is not obligatory under the rules. Therefore, the first principle that this Bill seeks to establish is not a very astounding one. It is a well recognised principle based upon very humane and sound considerations.

Two objections have been raised by the Government so far as I can gather from the Select Committee's Report as well as the debate in the other House. They say that if fire arms are to be used only when it is unavoidable who is to decide the question of fact whether the officer using them acted under the circumstances which may be legally described as being unavoidable? My only answer is that it is not an innovation which the Bill makes. Section 129 of the Criminal Procedure Code, as it stands, authorises the use of military force. It says that, if any such assembly cannot otherwise be dispersed, military force should be resorted to. The Assembly made a change in favour of the officer by substituting the word "unavoidable". The same authority will also decide the question as to whether the circumstances were such as to render the use of fire-arms unavoidable. Therefore, there is no substance in the objection because it is really a mere reproduction in a different language of all the limitations that already exist in section 129. The other objection I understand is that why should fire-arms be resorted to in the last instance? Why should they not be preferred to other modes of dispersing an assembly if the officer in charge feels that other kinds of force will cause less injury in dispersing the assembly more effectively than the recourse to fire-arms? For instance, why should not an officer resort to a bayonet charge and relegate the fire-arms to the background? My answer is this, that in the case of a bayonet charge you injure such of the rioters as are determined to make a stand against the authorities who are trying to disperse the crowd. The bayonet charge will not touch the people who are not determined to oppose the authority. Secondly, in the case of a bayonet charge people know that the military and the police are marching, they know what the impending danger is and they quickly disperse. But in the case of fire-arms which are used from a long distance it will not be possible to scent the impending danger. It will not be known to the rioters. Therefore, there is a greater risk. Thirdly, the use of fire-arms as has already been said is likely also to affect innocent bystanders and others who will be shot and killed. It will not be the case in a bayonet charge. So these objections are not very sound. I have already informed the Council that in other countries and also in Executive instructions generally the use of fire-arms is relegated to the last resort and that is a good and sound principle. That is the first principle.

The second principle is that the assembly shall not be fired upon without a previous warning. Then, this Bill makes it very clear that the warning can be given by such means as are available. If no means are available, it does not preclude an officer from firing. All that is necessary to say is "unless you disperse you will be fired upon". This clause of the Bill makes it very elastic in favour of the officers using fire-arms by using the words "such means as may be available". Therefore, it is not a very stringent rule. Moreover, I beg to remind this House that this clause about the giving of warning was accepted by this House and it was embodied in the Bill. I am not therefore asking for any new provision. It is a clause which was accepted in a Resolution and subsequently embodied in a Bill which was also passed by this House. To that extent, therefore, this Bill does not seem to depart in any way from the intentions of this House once expressed in 1921 both in the Resolution and in the Bill. The provisions of the English law regarding the reading of the Riot Act and giving time to the assembly to disperse are more stringent against officers,

in that they lay down that a certain time must elapse before the assembly can be fired upon. Besides this act of warning will also serve as a protection to the very officer who is ordering the use of fire-arms, because, once it is proved that he had given the necessary warning and the crowd did not disperse, any allegation made against him will be without substance. Once he has given the warning, it will put him in a very safe position. Therefore, I submit that the second principle embodied in the Bill does not need much to commend it to the acceptance of the House.

Then, Sir, the third principle is that a person authorising the firing shall send an immediate report of the occurrence to the nearest first class Magistrate. From the debate in this Council and the recent debate in the Assembly I find that the Honourable the Home Member has not seriously disputed the correctness of this position. He only said why should the report be confined to the use of fire-arms? Why should it not be extended to the case of dispersing assemblies by other means? I have no objection to making a report in other cases also, but this Bill deals with the case of fire-arms only. Therefore, I do not think the Government will oppose the necessity of sending the report on the principle involved in this case.

I now come to the last and the most important clause of this Bill, namely, giving liberty to a person who is injured and in the case of an individual who is killed to his parent or guardian or to wife or husband to make a complaint without the previous sanction of the Local Government. You are now aware that under section 132 of the Criminal Procedure Code no such prosecution can be launched without the previous sanction of the Local Government or the Governor General in Council. It is an absolute provision. Now, what does this Bill say? It says

“Notwithstanding anything contained in section 132, no sanction shall be necessary for the institution of a prosecution by any person injured by the use of fire arms or any parent or guardian, husband or wife of a person killed by the use of fire arms against any person in respect of any offence committed by him by reason of any act purporting to be done under this Chapter”

On this I know there is a great deal of controversy and I would therefore like to say a few words. This is an elementary right of a citizen to proceed against an officer of the Government for exceeding his powers. It is not an innovation, which is sought to be introduced for the first time. I shall read one small sentence in Dicey's Rule of Law. He says —

“In every legal system the right to proceed against a servant of Government for wrongs done to individuals in his official capacity exists in some form or other. The right corresponds to the instinctive impulse of the legal victim to seek compensation from the immediately visible wrong-doer”.

This is a fundamental rule of every legislation and it is only enacted here. Then, Sir, English and American laws do not require any previous sanction to prosecute any wrong-doer. It is, humanly speaking, too much to expect the Executive Government to sanction the prosecution of one of its own officers who has purported to act in the discharge of his official duties. I am not aware of any instance in which sanction was given, and I was told by men who have considerably more experience



than I, men like my friend Mr Jinnah, that they never came across any case in which sanction was accorded. And I may tell you that this clause only tries to remove the restrictions contained in section 132, and that it does only very partially. It does not do away with the necessity for sanction when force other than fire-arms is used. In all other cases the necessity for sanction still remains. Secondly, unlike in England and America the power or liberty to complain is not sought to be given to any person. There any person can complain against excessive use of force, but in this case it is restricted to the injured person, and in the case of death to his nearest relation. Honourable Members will therefore see that this clause very much restricts the English law and also modifies section 132 to a very limited extent.

Then, Sir, I shall deal with two objections which I have come across regarding this provision, which have been raised to the principle embodied in this clause. The first is that fear of impending prosecution might unnerve an officer and prevent him from discharging his duties efficiently in an emergency. In this matter I can only say this. It is a question of human psychology. If officers in England and America and other places, where similar liberty exists in much wider terms, are not unnerved, I do not see why officers in India should be treated in an exceptional manner, and why it should be considered that they should be unnerved by this provision. I do not think human nature differs very widely in this matter, and I do not think the assumption underlying it is correct. Secondly, it is said that there is a certain amount of hostility, unreasonable hostility, towards the police and the Executive in India and that the liberty is likely to be abused by the institution of frivolous charges against officers in the discharge of their duties, and supporting them in some cases by false testimony. There seems to be no justification for making such an assertion, and it would be a libel on the character of the whole Indian nation. People realise and are thankful for the help that the military and police render them when a furious mob attacks their home and hearth, and it was handsomely acknowledged by the Honourable Home Member that in Delhi and other places where riots had occurred, people offered fruits and things to eat to the soldiers and police in charge of the operations. Everyone is interested in seeing that their property, home and hearth are safeguarded, and when the police and troops are discharging their duties in the interests of the community, it is difficult to believe that people would be so wantonly wicked as to bring false charges.

Then, Sir, it is not as if the officers had not got safeguards. The Indian Penal Code gives them so many safeguards, in addition to safeguards in the Criminal Procedure Code. The Indian Penal Code deals very favourably with cases relating to officers in the discharge of their duties. All acts if *bonâ fide* and done while acting in the public interests are exempted from the category of offences. That is a very great safeguard which ought to be sufficient. In case a complaint is filed under section 202, a Magistrate may not take on his file a complaint without previous inquiry and may dismiss it under section 203 without notice to the accused. There is also section 494 of the Criminal Procedure Code under which a complaint may be withdrawn and a *nulli prosecute* entered by an officer of the Crown.

THE HONOURABLE SAYYID RAZA ALI That is a disputed point whether the case can be withdrawn.

THE HONOURABLE MR V RAMADAS PANTULU So that even in the face of so many safeguards, if you say that a person who makes improper use of the powers and kills human beings without justification should not be brought to book, then I can only say that the law of this country seeks to set very little value upon the sanctity of human life. I do not say that such incidents will be of frequent occurrence, but all the same it is possible. I know that is a very difficult and delicate duty which an officer discharges, but I do not see why he should not submit himself to the consequences of the law just as any other citizen. The law as set out in England is very clear. I will only make a brief reference to two English authorities. The first is a judgment delivered in England in the case of the Bristol riots. It is in the case of *King versus Pinney*, in which the judiciary took into consideration the very unenviable position of the Magistrate or officer, and at the same time imposed on him duties which you may consider to be extremely difficult to discharge.

"Now"—said Mr Justice Littledale—"a person whether a Magistrate or an officer, who has the duty of suppressing a riot, is placed in a very difficult situation, for if by his acts he causes death, he is liable to be indicted for murder or manslaughter, and if he does not act, he is liable to an indictment or an information for neglect. He is therefore bound to hit the precise line of duty, and how difficult it is to hit that precise line will be a matter for your consideration—that is to say for the Jury's consideration—"But that"—continues the Judge—"difficult as it may be, he is bound to do".

That is the view which an English Judge has taken of the duties of a Magistrate or an officer as a citizen. I will only quote one more passage

sanction for a criminal prosecution? Is that the way things go on in England? When one officer errs and you wish to bring him to book, do you go and ask the permission of his immediate superior? Or do you go and sue him in a court of law? It is something that Indian law cannot be proud of. It belongs, if I may say so, to a barbarous age. It ought to go out of the Statute-book. To require the sanction of the Governor General in Council or the Local Government to prosecute an officer for what would be murder or man slaughter is to ask, I think, for the impossible. When an officer is accused, the whole of his department with all its moral force comes down whether in a court of law or in the public or anywhere to prove that the officer is in the right and the complainant is in the wrong. To make a prosecution conditional on that superior giving his previous sanction to it, is effectually to close the jurisdiction of the court. Now I object to all legislation which shuts courts out of their natural and proper jurisdiction."

That is the position, Sir.

In conclusion, Sir, I will urge one or two reasons why this Bill should be taken into consideration. My friend Mr Crerar will tell me that I proceeded on *a priori* reasoning and on Juristic principles, and not upon real facts, but I am not shutting my eyes to the realities of the case. It is possible to exaggerate or to invoke the aid of any particular incident of a very exceptional character, but we can neither of us be benefited by having recourse to or by invoking the aid of exceptional circumstances. Generally speaking, I may venture to say that the crowds in India are not very dangerous. We are a disarmed nation and the way in which you have administered the Arms Act for half a century has completely disarmed us, and in this country riotous mobs are not likely to be as dangerous as in countries where arms may be used. Therefore, it may safely be said that ordinarily the police or the military can face these crowds without grave risks without resort to the indiscriminate use of fire-arms. Secondly, Sir, as I have told you already, there is this fear that some officers are likely to use fire-arms to produce a sudden and striking effect. Lastly, in England the soldiery understand the habits and customs of the people, in this country there is great danger that the soldiery, which is employed to suppress riots, may not understand the customs of the people. I have read of an incident in connection with the Punjab tragedies, that when a group of men was walking to the Deputy Commissioner's house to make a representation to him, a company of Gurkha soldiers mistook their having bare feet as a mark of disrespect to the Government and as a mark of insolence and fired on them killing some people. This incident which I have read of shows that even Gurkhas, who live on the borders of India, know so little about the customs of the people. It is little wonder if European soldiers, who come from Scotland, Wales, Ireland and England, mistake customs and without understanding the temper or manners of the group, open fire, under circumstances which would not be justified. There are grave dangers involved in this, and all that we seek to do is to regulate the use of fire-arms by having the same prohibitions as those which are well recognised in other countries. With these words I beg to commend this motion to this House and hope that this House will not go against the widespread feeling in this country in the general desire to prevent the recurrence of such unhappy incidents as I have mentioned, by the undue and excessive use of fire-arms. I appeal to you to recognise the sanctity of Indian life in the same way as human life is protected all the world over.

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, despite all the persuasive and conciliatory language used by my Honourable and learned

friend opposite, I regret that it is my duty to oppose his motion. In so far as the Bill is intended to protect the public against the unnecessary use of fire-arms and to instruct the officers of Government in their duties and their liabilities, I take no exception to the intention, which is unquestionably based upon humane principles. But on that intention the Government themselves have already repeatedly and consistently acted, and of the prescriptions contained in this Bill which are likely to be of the slightest advantage either to the public or to the forces of the Crown, all are already contained in the Executive orders of Government, both in those addressed to the civil forces of the Crown and in those addressed to the military forces of the Crown. My objection to the Bill is that, in respect of what it purports to do and what, as a matter of fact, it would effect in operation, as well as in respect of the expedients it proposes, it is entirely misconceived. Its fundamental misconception is that it is either practicable or advisable to provide by Statute for the manifold contingencies of any one event of a class which presents almost infinite possibilities, which must commonly arise suddenly and either unexpectedly or in some form impossible to foresee, and which demands action which must be not only prompt and resolute but cool, responsible and intelligent. Now the Bill gives no directions whatsoever to assist the officer, which are not, as I have already said, at least equally well provided elsewhere, and it is in the highest degree calculated to impair these primary requirements—good judgment in assessing a situation, intelligence in considering the action to be taken, in respect both of its necessity and of its sufficiency, and promptitude in taking that action. There are, Sir, I believe, certain Chinese Manuals of the art of war which set out to instruct the aspiring soldier in every possible contingency of an action or campaign, and which lay down most rigidly the specific action in each which alone is orthodox and permissible. They are very ingenious, but I confess, in any particular problem of military action, I should prefer to be guided by the science, experience and judgment of His Excellency the Commander-in-Chief or one of his officers. There is a most interesting treatise on the art of government commonly known as the Arthashastra of Kautilya, and this is also an elaborate codification of this character, which in respect of its warlike precepts, was drawn up, I imagine, by the Brahmin for the use and execution of the Kshatriya. We have something of the same kind here, a Bill drawn up in seclusion, by the sole light of the Palladian oil, for the admonition—I regret I cannot say the use or the instruction or the encouragement—of the executive officer, who works in the dust and heat, and who bears the burden, the odium and the peril on his own head. Well, Sir, the Bill is not quite so elaborate as the instances which I have adduced, but it does suffer from the same defect of endeavouring to stereotype into a Statute matter which is inappropriate for a Statute. Further, and more, it is calculated not to instruct, but to deter.

Now, Sir, my Honourable and learned friend informed the House that prescriptions regarding the use of fire-arms dealing with an unlawful assembly have in England been drawn up in Statute form. There, I must say—and I say so with the utmost submission and deference to my Honourable and learned friend's legal attainments—there, I venture to submit, he is gravely incorrect. Allow me in the first instance to remind the House,—

and though I speak as a layman, this is naturally a matter which I have had to study very closely,—let me, Sir, endeavour to remind the House very briefly of some of the main features of the English law in this matter. In the first instance, I must say as a preliminary, that practically the whole body of English law in the matter is contained not in any Statute at all but in the common law of England and in the judgments of the Courts. Now, Sir, in my judgment the most important and the most significant prescription of the English law in the matter of the responsibility of all classes of persons in regard to public disorders is the following, laid down in the well-known charge to the Grand Jury after the Bristol riots of 1832 delivered by Chief Justice Tindal

“By the common law every private person may lawfully endeavour, by his own authority, and without any warrant or sanction of the Magistrate, to suppress a riot by every means in his power. He may disperse, or assist in dispersing, those who are assembled, he may stay those who are engaged in it from executing their purpose, he may stop and prevent others whom he shall see coming up from joining the rest, and not only has he”—and I invite the special attention of the House to this—“the authority, but it is his bounden duty as a good subject of the King, to perform this to the utmost of his ability.”

You will observe, therefore, that, firstly, the law in England lays on every citizen, whether he is an officer of the State or a private citizen, the positive obligation of acting and, if necessary, taking the initiative in suppressing a disorder. Now the rest of the law is very simple in substance. The principal prescription is that the force used must be strictly proportionate to the necessities of the case. The law in England is simply this

“The degree of force, however, which may lawfully be used in their suppression depends on the nature of each riot, for the force used must always be moderated and proportioned to the circumstances of the case and to the end to be attained.”

Sir, during the course of the debate in this House in 1921 cited by my Honourable and learned friend, it was actually stated, and if I heard my Honourable friend correctly, I believe he repeated that statement to the House on the present occasion, that the effect of the English Riot Act was to make it unlawful to fire until after the expiry of a certain period. Nothing, Sir, could be more remote from the facts. The reading of the proclamation under the Riot Act is not by any means a necessary preliminary to the use of force in dispersing an assembly in England. The only effect of the Riot Act proclamation is to make it a felony on the part of any persons constituting members of an assembly who do not disperse within one hour after the proclamation by the Magistrate. The Act imposes no restrictions whatsoever on the officers concerned, what it says is that to remain in an assembly after the proclamation is read by the Magistrate

“shall be adjudged felony without benefit of clergy and the offenders therein shall be adjudged felons and shall suffer death as in case of felony without benefit of clergy.”

That, Sir, is the operative provision of the Riot Act which has been represented to us as an Act which forbade the use of fire-arms in dispersing an assembly until an hour after the Magistrate had read the proclamation.

Now, Sir, let me come back to what is really the important, practical proposition before the House. What benefit is this Bill likely to confer, and on whom? If it is going to benefit anybody in any way at all, it seems to me that

it makes a very strange and irrational choice of its beneficiaries. In a riot, apart from those immediately responsible for order, there are at least two parties interested,—the law-abiding citizen and the rioter. The interest of the law-abiding citizen is the protection of his own person and property and the speedy termination of the disorder. The rioter, I presume, conceives his interest to be license to do as his passion dictates and to do it with impunity. Which of these interests is this Bill calculated to serve? And why this extraordinary favour shown to the breaker of the law? As regards the officer of the Crown, the Bill obviously is not designed for his advantage. It is to instil into him a salutary dread of any error of judgment or mischance, which may be imputed as malice by an *ex hypothesi* highly prejudiced party. Now that really must have the effect of impairing his confidence and therefore his efficiency. And who, in the end, is likely to suffer most? The officer no doubt suffers to a certain extent, because if he fails to do his duty, he will have to answer a very rigorous departmental inquiry, but he will not suffer so much as the other party whose interests seem to have been so singularly neglected by the promotor of this measure, the law-abiding citizen.

Now, Sir, I will proceed to examine very briefly the effects as I conceive them to be of some of the principles of this Bill in operation. The Honourable Member has informed the House what in his conception would be the effect of clause 1 (a) of this measure. Well, the first observation I have to offer is that I can see no rational basis for the discrimination of force which has been introduced. I presume the idea was that the use of fire-arms is necessarily the most dangerous and most destructive kind of force which could be used, and we had the Honourable Member giving us his own views as to the comparative innocuousness of a bayonet charge.

The real objection from the practical point of view to that argument is that a bayonet charge is a form of force the use and the  
 4 P M                      limit of which it is far more difficult to control. That is a matter which can be much more authoritatively explained to the House, as I trust it will be explained, by His Excellency the Commander-in-Chief. There is another consequence of that clause which I do not think my Honourable friend has really considered. It places necessarily, in all circumstances and without qualification, or with very little qualification, the whole responsibility for the initiative on a Magistrate, if a Magistrate is present. Now, a position which is very likely to arise, a position which frequently has arisen, is that a riot occurs and you have on the spot possibly a third class Magistrate. I do not wish to disparage him in the least. The third class Magistrate discharges very important and very useful functions, but in the ordinary course of events that Magistrate will be a man who has not had very much experience of the law at all and none whatsoever of carrying out the executive action laid down by the law. He is unfamiliar with situations of this kind, and it would not be surprising if his judgment were very seriously affected by the critical character of the circumstances. On the other hand, there may be present on the spot a very senior Superintendent of Police who, I will not say has grown grey in suppressing disorders, but who during the course of a long police service has had opportunities of learning how to deal with a situation of this kind. My Honourable friend says "No, that Superintendent of Police should not be allowed to exercise his superior judgment in this matter, and the reason to be

taken by him should depend entirely on what the inexperienced Magistrate who happens to be there authorises him to take, though the Superintendent of Police knows much better what action is immediately, urgently and imperatively necessary ”

Then, Sir, we have the second proposition, that on all occasions the fullest warning shall be given This is what the Bill lays down

“The person who directs that the assembly shall be fired on shall, before so doing, warn the assembly by such means as may be available that unless it disperses it will be fired on ”

That does seem a very reasonable prescription to make The only question is whether it is more conveniently to be made in the form of the imperative executive orders which are now in force or in the form of a Statute Moreover, if you proceed to embody a prescription of this kind in a Statute, you will find yourself involved in very serious difficulties It seems a very plain, simple and obvious proposition But it is a matter of almost daily occurrence in this country that armed dacoits are pursued by what is possibly an inferior police force The police force pursues this body of dacoits Now, according to the Bill, that police force is bound to give notice of firing before doing so It is not a case in which there is any physical impossibility of conveying the warning It can perfectly well be done But what is going to be the consequence ? The police force having probably spent days in pursuit of this body of dacoits, when it finds itself in a position of tactical superiority, for which it has laboured hard and long, is compelled to surrender that superiority and possibly involve itself in a very serious disaster There is no sense in that proposition, innocent as it appears and laudable as its motives no doubt are

Then, Sir, I come to the question of the statutory report There again I contend that though the prescription is in itself quite proper, it is not a proper one to be embodied in a Statute and more particularly, I contend, that its value will be absolutely nil First of all, it is one of the commonest experiences of those who have had anything whatever to do with the suppression of serious disorders that it is exceedingly difficult to ascertain the authentic facts in any short period of time You will possibly have rioting going on simultaneously in different parts of a large city It takes sometimes three or four days before the officer in supreme charge of the operations can get from his various outposts and stations even preliminary, to say nothing of correct and authentic, information of what is actually happening That is one objection Then, I take another, which to my mind is really more fundamental, because it touches on the value of the report itself I ask Honourable Members to put themselves in the position of an officer who has made himself responsible for the use of firearms in the suppression of a riot What does the Bill require him to do ? It requires him to send a report within twenty-four hours of the occurrence That report will moreover become a public document It will be matter which can be used against this officer in precisely those circumstances contemplated by my Honourable and learned friend in the last clause of his Bill Can you really expect that an officer in those circumstances will report facts which might be used subsequently to his own disadvantage in a Criminal Court ? I appeal to my Honourable and

learned friends opposite, I appeal to the learned doctors of law in this House and ask them, if they were advising a client in that position, what advice would they give him? I venture to predict that they would say to that officer: "Comply with the Statute and no more" Well, Sir, if that was the advice given to the officer in question, as it is the course obviously dictated to him by the necessities of the case, I ask of what value is that report likely to be and to whom? I submit it will be an absolutely valueless document.

Finally, Sir, I come to the question of sanction. The Honourable Member has very truly said, and I entirely agree with him in the statement, that this is the most important provision in the Bill. Let us examine it. I take it that the purpose of this Bill and of this particular provision is to ensure that any officer, civil or military, who has been concerned in the dispersal of an unlawful assembly by the use of firearms can be prosecuted on a criminal charge without the sanction of the Local Government or the Governor-General in Council. If that is not the intention of the Bill, I trust my Honourable and learned friend will correct me here and now. I assume therefore that it is the intention. Now, Sir, let us examine some of the consequences. There is a general provision in the Indian criminal law, section 197 of the Criminal Procedure Code, which lays down

"When any person who is a Judge within the meaning of section 19 of the Indian Penal Code, or when any Magistrate, or when any public servant who is not removable from his office save by or with the sanction of a Local Government or some higher authority, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Local Government."

Now, Sir, that is a general rule of law in this country and the House will observe the very grave derogation from this rule which is contemplated by the Honourable Member's Bill as he himself interprets it. Whether the Bill would precisely have that consequence is another matter. But as the Honourable Member has made it clear that that is his intention, let us see to what class of officers and of official acts section 197 of the Criminal Procedure Code applies. It applies to every public servant who cannot be removed from his office without the sanction of a Local Government. And the kind of action covered is that taken every day in the ordinary course of Government business. It may be an ejection, it may be the realization of arrears of revenue or the execution of the decree of a Court. In doing this the officer concerned can consider at his leisure what his rights and liabilities are and he can, if he so desires, take legal advice or obtain the directions of superior authorities. In performing those actions you very rightly extend to this officer, not an indemnity nor an immunity, but a certain limited protection. But when you have the case of an officer who has to take decisive and immediate action, who has, without any opportunity for reflection, to act forthwith on the dictates of his duty, his conscience and his judgment, you propose to deprive him of such measure of protection as the law now provides. I can see, Sir, neither the reason nor the equity of that distinction. Moreover, I must point out that the class of officers I have myself more particularly in mind is not the European officer of the Crown, whether civil or military, but the Indian officer. I regret very much that I am compelled by this measure to advert to a melancholy



fact During the course of the last few years the greater part of the disturbances that have taken place have been communal riots In certain of these we have had a Hindu police officer dealing with a case in which the rioters were mainly Muhammadans and in others we have had a Muhammadan District Magistrate dealing with disorders in which both Hindus and Muhammadans were concerned Now, Sir, into what kind of a position do you propose to put such an officer? We all know, and it is perfectly natural, that when riots take place popular passions are violently inflamed and it is easier to inflame popular passions than to alleviate them It takes some time before the bitterness, the acrimony and the hatred engendered by these riots subside And, while that exacerbation of public opinion continues and the odium of having to fire upon a mob or to take any other course of action to suppress it is still raging in all its virulence, my Honourable and learned friend proposes to expose an officer in that position to the prejudicial attacks of those who *may find it convenient to take advantage of the situation, possibly to vindicate some old revenge or personal malice* Again, I say that is not a reasonable or an equitable proposition

I fear I have delayed the House already too long and perhaps I have spoken with a warmth which will contrast not very favourably with the calm demeanour of the Honourable and learned gentleman opposite If I must make some excuse for that it is, that I have had a considerable amount of personal experience of dealing with disorders and of the position of the officers whose duty it is to deal with such disorders And I can hardly speak on these matters without a certain amount of warmth when I see a proposition to lay so heavy and so dangerous a burden on shoulders which already are bearing a very great burden of responsibility and danger.

Finally, Sir, let me say quite plainly and candidly that the consequence of passing this Bill would unquestionably be to raise apprehensions regarding the sense of responsibility of the Indian Legislature in matters relating to law and order, apprehensions which will be very widely noted in many quarters and very severely construed I cannot refer to them more specifically at this stage of the debate, but I am happy to note from the list of business to-day that there are individual Members of this House who have displayed a very active and individual sense of responsibility by amendments to the Bill which would certainly have the effect of importing into it valuable safeguards That active and individual sense of responsibility will, I feel sure, be fully shared by the House or by a great majority of the House One word more, Sir I spoke of the inference in regard to the Legislature which would be likely to be drawn from the passage of this Bill. Let me also briefly give my judgment as to what the impression drawn outside the Legislatures will be. It will be simply this that, whatever the intentions and whatever the designs of the framers may be, the effect of the Bill would be generally interpreted as directed to the encouragement of the law breaker and the discouragement of those responsible for maintaining the law

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces General) Sir, I am afraid I cannot see my way to support the consideration of this Bill It has been my practice for several years during which I have occupied a seat in this Council that I shall not be a party to any legislation

which will curb or restrict in any way the ordinary statutory powers for the maintenance and preservation of law and order. The genesis of this Bill has been fully explained by the Honourable Mover of the Bill. This Bill has emanated out of the Resolution moved by the Right Honourable Srinivasa Sastri on the 3rd March 1921 in this Council. I have looked forward in vain for some explanation from the Honourable Mover for the introduction of this Bill. I thought that he would assign some reason or some justification for reviving a dead controversy after full four years that have elapsed since the moving of that Resolution. I thought he might refer to any events or incidents in which a further abuse of the power in the matter of the use of firearms had taken place. At least there has been no reason ascribed either in this House or elsewhere as to the immediate motive for changing the ordinary machinery of the law as provided in Chapter IX of the Criminal Procedure Code and substituting in its place a machinery of doubtful utility.

Sir, before I analyse the Bill and the principles embodied in it, I would like to dispose of some of the arguments which have been urged in this Council by the Honourable Mover. He first stated that the Bill was referred to a very strong Select Committee and has received its full support. That is not a fact. It was certainly a strong Select Committee, but it was by no means unanimous.

The two members, Sir Alexander Muddiman and Mr. Tonkinson distinctly stated in their dissenting note :

"We are not in favour of any alteration"—I am quoting their words—"in the existing sections of the Criminal Procedure Code. The alterations proposed in sub-clauses (1) and (2) of paragraph 1 of section 101 A, of clause 2 of the Bill are in the nature of executive instructions, and if not included in any executive instructions, it may well be so."

Even Mr. Jinnah did not give his wholehearted support to the Bill. With reference to the important clause, clause 4 he stated :

"I essentially agree with the report, save and except clause 4, as I am very doubtful as to the result that might be made of it."

despondency that we are a disarmed nation and therefore there could be no great and consequential results out of riots, etc. In that connection I would only mention that the history of the last five years belies that assumption. The terrible riots at Malabar and the horrible scenes that took place lately in the Punjab do not permit of our making such assumptions. Further, it was stated that some officers are likely to abuse the powers in regard to the use of fire-arms and that it is the duty of this Council to prevent such abuses. There may be many abuses in this country, but this is not a tribunal for the prevention of all abuses. It is a task beyond the power of this Council. We are only concerned with the immediate effects of this Bill and we must view the Bill from that standpoint only.

Sir, I am opposed to any legislation which attempts to deal with the use of fire-arms by a number of statutory provisions crystallized in an Act. There are serious objections to that procedure. The first and foremost is that a Bill of this character takes away from the men concerned in the suppression of riots full liberty of judgment and action. I say full liberty of action, because the Magistrate or the police officer who is present at the time of the riots, in my opinion, is the best judge of the situation. He, in my opinion, is the sole judge of the critical circumstances. He is the only person who can realize whether a serious mischief is likely to ensue, and whether the tumult or the riot should not be immediately stayed by the use of fire-arms. If we pass this legislation we make the Executive absolutely impotent in my opinion. Have we any right, I ask, to prevent the liberty of action of a police officer or Magistrate who comes to a conclusion that an emergency has arisen and in that emergency fire-arms should be used?

Sir, I am wholly opposed to deprivation of such liberty of action. It is a matter of common knowledge that when we discussed the repeal of the repressive laws we were often emphatically told that the ordinary machinery of the criminal law was sufficient and adequate to meet all manner of offences. We have out of thirteen penal Statutes already repealed seven and we are to-day asked to take away by an act of State the powers which a Magistrate or a police officer has of suppressing riots under the ordinary machinery of laws. There seems to be no consistency in politics. When it suits us that certain steps should be taken for the repeal of certain Acts we come forward and very vehemently urge that our ordinary criminal law is quite sufficient and yet in the same breath we at another moment say that that very criminal law, the ordinary criminal law of the country, should be emasculated by some ridiculous and unwarranted piece of legislation. It is on that ground of indefensible inconsistency also that I oppose this Bill.

I further oppose this Bill because many of the provisions are covered by the executive instructions that are issued by Government, and in a matter of this nature I think executive instructions should form rather the method and guide by which discretion is to be exercised, than setting up unalterable rules and injunctions by legislation. In matters of emergency it is impossible to act or give strict effect or adherence to provisions of law howsoever salutary and just they may be. My main objection to this Bill is that if it is passed, it will deter officers from doing their duty in serious emergencies. Do you really expect that, with a Bill of this character existing any Magistrate or any

police officer will take the responsibility of acting on the spur of the moment when a call is made upon his judgment to decide whether fire-arms are to be used or not ? This legislation will be hanging over his head and he will be first contemplating whether, by giving the order to fire, he would not be placing himself within the penal provisions of this law. And what will be the result ? The result will be not the suppression of the riot, but the loss of many lives among the rioters themselves, the loss of property, and a serious destruction of the place where this riot has taken place. Sir, I am not at all in favour of placing unreasonable limitations upon the powers of our executive officers. I wish to keep them free and untied to any strict forms or the strict letter of the law and allow them to act as their best judgment dictates in moments of emergency. Another effect of passing legislation of this nature is that you destroy all sense of responsibility in a man. You make him the creature of the specific provisions of the adjective law. Many disastrous consequences might ensue as the result of that officer refraining from discharging his duty in a moment of grave emergency. Further, I have not been at all satisfied that this power has been abused in the past. In the last four years many instances have taken place where fire-arms have been used, and I do not know of one case—that case would have been undoubtedly cited by my Honourable friend here if it existed—to show that there was an abuse in the exercise of that power. Why should we then change the ordinary machinery of our criminal law and substitute for it a law of doubtful importance and utility ? Sir, this is not the time to speak about the several provisions of the Bill. I shall only refer to clause 4, which takes away the necessity of obtaining the sanction and subjects any Magistrate or police officer who has done his duty, to a criminal prosecution. With the dispensation of such sanction is it likely that any man will perform his duty and rise to the occasion ? I do not believe so. I see also the gross injustice of depriving a Magistrate or police officer of the protection which the ordinary law gives them. My Honourable friend Mr. Crerar has already referred to section 197. If Judges and Magistrates can ordinarily claim such immunity, I do not see why a Magistrate or a subordinate police officer, who does his duty gallantly and bravely under circumstances involving personal danger, should be deprived of that privilege. I cannot see either the justice or the force of argument in a retrograde proposal of this nature. My friend stated that such a law does not exist in England. That is true, but pray do not compare England with India at present. In England I know there are political and economic riots. In India we have got communal riots, religious riots, where fanaticism often finds itself supreme and uncontrolled. There are occasions which I need not refer to here, when it would be indispensable that some power to make prompt and unfettered decisions should be preserved in the hands of the police. Moreover, in the later history of this country communal differences have led to many sanguinary skirmishes such as the riot which recently took place in Delhi only a few months ago, which justify the maintenance of some sort of protection for our police officers. My friend also stated that there is the provision of section 202, which enables a Magistrate, after a preliminary investigation, to dismiss the complaint, and he also referred to another provision of the law. But after all, why should a police officer be even subjected to the indignity and harassment of a prosecution of this character without the sanction of Government ? I am not therefore, Sir, in favour of making any change in the existing provisions of the law. In

my opinion Chapter IX of the Criminal Procedure Code makes ample provision, together with the executive rules issued on the subject. The present legislation embodied in the Criminal Procedure Code is the outcome of many years of very careful investigation, discussion and experience, and unless there are very very substantial reasons given for changing the law on the subject, I am one who is opposed to the adoption of such a course

HIS EXCELLENCY THE COMMANDER-IN-CHIEF (Who was greeted with applause on rising to address the House) Sir, I think Honourable Members are aware that I have already spoken upon this Bill in another place. Since then I have had an opportunity of further considering the views I gave and I have not in any way departed from those views. I am also aware that some of my Honourable colleagues have been kind enough to read what I said and have discussed the matter with me. I therefore fear I must apologise to them if I again repeat some of the arguments I then used. I would begin by saying to all my Honourable colleagues, that we soldiers are first and foremost citizens of the British Empire. That is a title which we attained at our birth and of which we cannot be deprived until our death. I emphasise this point because, I think, there is often a tendency among civilians to look upon us as "peculiar people," to look upon the soldier as a rough and coarse creature, who possibly is not fit for decent society. I can assure you, Sir, that there is no reason to regard soldiers as such. We are intensely human creatures and we know no military castes. We are like you all just citizens of the Empire throughout our lives. During such period as we are soldiering we realise that one of our first duties is to do what we can to ensure the safety and well-being of our fellow civilian British subjects, and to see that all members of the Empire shall be able to go where they want, and to do what they wish upon their lawful occasions. I know all will agree with me when I say that in performing those duties we, soldiers, are faced with many and great difficulties. One of the duties which we all detest and which we look upon with the utmost dislike is when called out in aid of the civil power, and the reason for that is very obvious. To begin with, the soldier realises that he is generally called on in aid of the civil power when matters have reached a crisis and as a last resort. He knows, therefore, that he may have to take drastic action immediately. Moreover, it often happens both in England and in India that the soldiers who are so-called upon, will have to act against their own friends and relations. Then probably what influences him more than anything else, is the fact that at the back of his mind he has got the feeling, that whatever he does he has very little chance of being credited with having done the right thing. He is almost certain to be told later on that he has done the wrong thing, because it is so easy for the armchair critic later on at his leisure and after the event to say exactly what should have been done. If he takes a very serious view of the situation when he arrives to take over, and considers it essential to take drastic action he is almost certain to be held up to execration. If, on the other hand, he takes too optimistic a view and the situation gets beyond his control, if in consequence a robbery, arson or bloodshed takes place, he is at once told that he is a poltroon and a fool and he will certainly be tried by court-martial. It is very unlikely that there can be two episodes which will present exactly the same features. And, unlike the Chinese, as the Honourable the Home Member informed us, we are not able to draw up exact regulations that

will cover every possible situation I will however read with your permission Sir, a short extract from the latest instructions relating to martial law It runs as follows

“ When an officer is required by a Magistrate or himself determines that a serious situation arises when there is no Magistrate within reach, to disperse an assembly by force, he will before taking action, adopt the most effectual measures possible to explain to the people that, if necessary, fire will be opened and that, if firing becomes necessary, the fire of the troops will be effective If he is of opinion that it is necessary to fire but that the fire of a few men will attain the object of dispersing the assembly, he will personally give the command to a few specified men to fire If a greater effort be required he will personally give the command to one of the sections to fire ”

You will, I think, observe from this extract that it is definitely an obligation laid upon him both to give notice and to fire as little as he possibly can The instructions further go on to elaborate (and I may mention that these rules have been based upon long experience and upon the highest conception of the sanctity of human life) Certain principles which are to be followed and which I have summarized are as follows .

- (1) When a Magistrate determines that force is necessary to disperse a crowd, he calls upon the officer commanding the troops to do so
- (2) The officer commanding troops thereafter is empowered to take such action as he deems necessary for this purpose He is the sole judge of what action to take, and what weapons to use
- (3) He is bound to use the minimum possible force for the purpose
- (4) No *statutory* warning is laid down previous to the opening of fire
- (5) He is responsible for the safety of his command, and
- (6) The officer can only be prosecuted for his action with the sanction of Government

I think Honourable Members will be able to gather from these instructions that I have mentioned, that there are four main principles which emerge. They are as follows

- (1) If ordered by due authority to disperse a crowd, the officer commanding troops will do so in such manner as he thinks fit and of this he is the sole judge
- (2) He will always give warning before opening fire, if it is possible to do so.
- (3) He is definitely responsible that he uses as little force as possible and
- (4) He is definitely responsible for the safety of his own command.

Honourable Members will, I am sure, join with me in realising what extraordinary sound judgment, great discretion and very often considerable personal self-control and restraint must be necessary for an officer who is called upon in a sudden emergency to reconcile what may at times appear to be conflicting principles But running through them all there is one definite idea of personal responsibility The officer commanding realises that once

he has received his orders on him devolves a definite duty and he alone is responsible for the results. It seems to me, Sir, that that sense of personal responsibility is probably the very best possible safeguard that can be devised to ensure that when the troops are called out, their duties shall be performed both efficiently and without unnecessary loss of life.

I will now turn, Sir, to the alterations that would be made if effect should be given to the proposed legislation. The three main proposals under this which affect the soldiers, are (1) that the Magistrate must decide on the weapon to be used. Responsibility for the particular kind of force to be used is thrown on him, (2) Warning must invariably and *under all circumstances* be given in any case before fire is opened, (3) An officer may be prosecuted for any offence committed by him in this connection without Government sanction for such prosecution. I will take those three points in turn, Sir.

The first is that the Magistrate is to decide what weapons are to be used. By bringing in a rule of this sort, you at once take away from the executive officer, the officer who will carry out the order, the responsibility previously laid upon him. In fact by taking away the responsibility, of the *method* by which he will carry out his work, you reduce him to a machine, and from a machine you are going to get nothing but mechanical results. No human thoughts are governed by a machine. Further, and this is probably the most vital point of all, we must remember that, if the officer in command is not responsible for the *methods* employed, he cannot possibly be held in any way responsible for results. That is a point I would like Honourable Members to realise very clearly. In fact under the proposed legislation the decision as regards the weapon to be used is taken away from the soldier and placed upon the civilian who can not be as competent to judge of the effects likely to be produced by the various weapons at his disposal, as the soldier, expert in arms. Surely, it is not fair to impose that responsibility upon the civilian officer. The Deputy Commissioner, Magistrate or *tehsildar*, how can he possibly be able to judge of the results of different classes of fire? It is, Sir, with much diffidence, as I know it is so hard to prove, that I say that the experience of many senior officers in many lands is that the restraining influence is that of the experienced soldier and not of the inexperienced and often somewhat perplexed and harassed civilian officer.

The Honourable Mover of this Bill has talked about the terrible effect that may result from rifle fire, but he does not anticipate that there would be anything like this effect from the use of the bayonet, or *lulra* of the Gurkha soldiers. It is quite true that in modern battle, rifle or gun fire is the deciding factor and the bayonet does not cause the enormous number of casualties inflicted by the bullet, but that is absolutely different from the situation which is likely to occur, when troops are called out in aid of the civil power. I imagine that the Honourable Mover of this Bill in his own mind thinks that, when firing is ordered, he contemplates the possibility of say a hundred men bringing their rifles to their shoulders and firing continuously volley after volley. That would be by no means the case. One or two individual men would probably be called upon, in the first instance, to fire two or three shots when the crowd might melt away. But suppose the Magistrate says, you are not to fire, you are to use your bayonet. The slaughter would then certainly be

greater, and the casualties far heavier than could happen from one or two rifle shots, which the military officer from his experience realises might well save the situation

I will turn to the second point, Sir. The second point lay down that definite warning must *invariably* be given before fire is opened. From what I have quoted it will be seen that the present regulations do compel an officer to give warning *whenever it is possible to do so*. I wonder if when the framer of this Bill made this proposal, which emphasised the word "invariably" and omitted the word "possible" he could realise what would happen? Let us just take one or two possible instances which might happen at any time. You sometimes get a sudden rush by a maddened crowd upon what may be innocent citizens or upon the troops themselves. Remember the officer commanding is responsible for the safety of his command, as well as of the citizens. He may have only a small handful of men, and one or two shots from that handful of men may and probably will, save the situation. If on the other hand he does not fire there is every possibility of his small command being enveloped by the mob (even if they were only armed with *lathis*) when he and his men might eventually succumb to overwhelming numbers, if they did not use rifle fire. Then again can we imagine, any of us here in this room, suddenly seeing a crowd advancing with torches and firebrands and on the point of setting fire to our houses in which our wives and families are. The troops have just arrived and able to save the situation by a few shots, but are unable to fire because the necessary warning cannot be given. I do not think I can see any of my Punjab friends there saying

*"Ghar phul tamasha rakh,*

*Bhudar din aaranga"*

I am convinced that there would be not one of us here in such a situation who would not implore the officer commanding to fire straight away to save the situation

I come, Sir, to the third clause. The third clause, as far as the soldier is concerned, permits an officer to be prosecuted without Government sanction. I am sure that everyone here will sympathise most deeply with us soldiers when we are called out to perform duties of this nature. You will realise that we are entitled to the full possible support that Government can give us. These duties are not repugnant to us. We do not carry them out as individual citizens but as servants of the Government, and we do feel that we are entitled to that support. It would indeed be intolerable if in such circumstances an officer's action should be at the caprice of any individual who might see fit to lay an accusation against him. If an officer who has these duties to perform has a feeling at the back of his head, "I am liable to prosecution for whatever I do", he cannot devote his whole attention and energies to the matter in hand. He must be able to approach these duties, which are abhorrent to him, with an absolutely detached mind, feeling that he is carrying out the orders of Government for the well-being of his fellow-citizens, and Government should see that he is not laid open to prosecution or unduly harassed as a result of an honest attempt to perform his duties



Putting it briefly, it seems to me that there are three sections of the community who are likely to be affected by the proposed legislation—

- (a) Innocent and law-abiding citizens who, through no fault of their own, find themselves and their property liable to be destroyed by an unruly mob
- (b) The equally innocent and law-abiding soldiers who have been sent out against their will to protect the lives and properties of their fellow-citizens
- (c) The law breaking mob, who take the law into their own hands, who are deliberately out to do all they possibly can to endanger the life and property of peaceful citizens

It seems to me that the proposed legislation contemplates, I will not say willingly, but it would certainly result in the safeguarding of the last mentioned section of the community at the expense of the two former, because if passed it is bound to hamper the soldier in the discharge of his duties, and consequently lead to the more likely loss of life and property of innocent citizens. I need hardly say, Sir, how grateful I, as the representative of the soldiers in this country, shall always be for any help which this Council can give us, but being convinced, as I am, that the duties of the troops in aid of the civil power, and the duties of the police in aid of the civil power can be most efficiently and harmoniously carried out by placing a definite responsibility upon the executive officer on the spot, I would urge that we do nothing to tie his hands, nothing which will make his already most arduous duties more arduous and more complicated.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay Non-Muhammadan) Sir, even after the very eloquent and lucid explanation given by His Excellency the Commander-in-Chief, I say, even after that, I feel I must support the Bill, with certain reservations. I do so because there is another side to the question, and it is that side which I propose to place before the Council in as few words as possible. More than one previous speaker has stated that the question of regulations for the use of fire-arms for the dispersal of menacing crowds was brought before the Legislature for the first time in 1921 by the Right Honourable Srinivasa Sastri soon after the new Councils were formed. He did so from a humanitarian point of view. He was induced to bring forward his motion because of the record of previous cases of premature shooting. The suggestion was not lost on Government as we learn from His Excellency the Commander-in-Chief that regulations have been framed, and one of the objects of the Bill is no more than to legalise those regulations.

The Bill in the other place was referred to a Select Committee, and on the report of the Select Committee we find dissentient minutes from three European members, two officials and one non-official. It appears that the arguments of the European members of the Committee were not convincing enough to make the other members veer round to the opinion of the minority. If they did not do so, it must have been because they thought it was necessary to provide statutory regulations in order to prevent any repetition of the abuse of premature shooting, which there was no denying had occurred in the past.

The Bill does not forbid the use of fire-arms when occasion demands it, but only emphasises the necessity of providing precautions against hasty and reckless resort to them when less drastic means would suffice

HIS EXCELLENCY the Commander-in-Chief stated that the military officials recognise themselves first as citizens of the Empire and next as soldiers. He further told us that if an officer used greater force than was necessary, he would be held up to execration, and, on the other hand, if he used less force he would be regarded as a poltroon. I quite admit that, but His Excellency will admit that, because the use of fire-arms is in the nature of his calling, he certainly will have less hesitation in the use of fire-arms than a civilian

HIS EXCELLENCY THE COMMANDER-IN-CHIEF AND ANOTHER HONOURABLE MEMBER. No

THE HONOURABLE MR PHIROZE C SETHNA. A difference of opinion

HIS EXCELLENCY THE COMMANDER-IN-CHIEF. I think he knows the results too well

THE HONOURABLE MR PHIROZE C SETHNA. It has not always proved so as far as I know. However, the Bill says fire-arms shall not be used unless it is unavoidable and unless a Magistrate of the highest class present specifically authorises such use. The Honourable Mr Crerar said you sometimes had to deal with third class Magistrates who were not competent to decide a question like this. Surely if that is the objection, Government could have brought forward an amendment to the effect that only a first class Magistrate could give such orders, and, in the absence of such Magistrate, the senior police officer or the military officer, as stated in the proviso, would be able to give the order. But Government have not done so, and object to the Bill wholesale. Therefore it is that I do not see what harm there is in accepting the principle and I think the addition that has been proposed to the existing law is a sensible one, and the objection advanced by Government is to me unintelligible

The main point, of course, is the last clause, and I am quite in sympathy with what has been said not only by Mr Crerar, but also by His Excellency, the Commander-in-Chief. Mr Crerar particularly referred to this clause, and said that the officer would always stand in dread of any action taken against him. I know there is a serious objection to this clause and that it exposes an officer who discharges perhaps a very urgent and painful duty, to harassment and loss, but in all the arguments that have been advanced against it, it has been presumed that injustice was going to be done to the officer, as if he was going to be dragged into a court of law through spite and as if the courts of law would never decide in his favour, and as if the public would in all cases be against him. That is an entirely wrong assumption. But I certainly am of opinion that sanction should be required from a proper authority. I mention as the authority the Advocate General, and if it is possible for me to move my amendment to that effect, I would further propose that such sanction should be obtained from the Advocate General and within a period of six months. We should not allow the officer to remain in suspense for a longer time. If this last clause in the form in which it is, or in any amended form, is not included in the Bill, then its absence would give immunity to an officer in all excesses, and that is the intention of the promoters of the Bill to safeguard

against, and particularly so because of the incidents which did occur some years ago. I do not for one moment say that any military officer without good cause would give the order to fire. I hope he may not do so now or in the future, but in the past, as we know, there have been some instances, and it is therefore that this clause is included.

Now Sir, His Excellency has told us to-day that soldiers generally exercise a very great restraining influence. It may be so, I admit it. But is the temperament of every officer and is the judgment of every officer alike so that the country may trust them on all occasions uniformly to do what His Excellency the Commander-in-Chief believes the soldier would always do? I may be allowed to narrate my own experience in a case of this kind. This happened at the time of the Prince of Wales' visit to Bombay, when, as the House will remember, there were riots in that city. There was a lunch given in honour of His Royal Highness at which he was present at a well known Club in that City, and just as we rose from lunch, word was brought that there was a large, unruly crowd with *lathis* and stones gathered together at the foot of Bellasis Bridge, Tardeo. I mention the place because I am sure His Excellency knows it. I was one of those who hastened to the scene. I saw for myself that the soldiers were almost ready to fire. And one of the crowd, a person whom I had never met before, came to me and appealed to me to dissuade the military officer from firing and he was supported in his appeal by several others whom I well knew. He said that if he was given the chance he would in five minutes be able to disperse the crowd. It seemed to be a tall order, but he gave me his name as Mr Banker. Now I knew Mr Banker by reputation as a person with much influence over the masses. This is the same Mr Banker who was put on trial along with Mr Gandhi at Ahmedabad later on and was sentenced. I therefore appealed to the officer present who said he had his orders from the Honorary Magistrate. The Honorary Magistrate present was an Englishman in whom I knew and I begged of him to withhold his order. I mention his name because there are Bombay Members in the House who will know him. He was Mr Barraclough. At first he was reluctant but subsequently he yielded to my persuasion, with the result that Mr Banker, surprising to say in five minutes succeeded in dispersing that crowd of 5,000 people, certainly a remarkable feat to my mind, as was acknowledged by the military officer present and by Mr Barraclough, and it proved the influence Mr Banker commanded over these people.

I have quoted this instance in view of what fell from His Excellency the Commander in Chief, because it shows that if firing had taken place as intended, there would certainly have been some loss of life, and if not loss of life, of certainly serious injury. This is a typical instance of what did happen and may happen elsewhere, and because of such cases it is that this measure has been introduced. This Bill therefore is a very necessary safeguard against the impetuosity of the votaries in this country of that principle, known as Martial law and no silly non sense.

THE HONOURABLE MR V. RAMADAS PANTULU Sir, I will very briefly reply to the points raised in this debate and I shall certainly endeavour not to take much time of this Council at this late hour. Sir, I should like to begin with my Honourable friend Nawab Sir Umar Hayat Khan. He has

very kindly advised me to withdraw this Bill on the ground that I cannot get the support for it in this House. I may assure him that I was not under any delusion when I made this motion in this House. But I certainly expected that the Government at least would have the courtesy of not opposing the Bill at the consideration stage, and that it would at least allow the Members of this House an opportunity to move amendments and bring it into line with what the Government and the Members consider to be a proper piece of legislation. Even this the Government have not done and I regret very much the attitude they have adopted. But I can assure my friend Nawab Sir Umar Hayat Khan that I have not got his implicit faith in the wisdom of this House and I certainly have much greater faith in the wisdom of the Legislative Assembly which consists of the accredited representatives of the people of this country. And when that body passed this Bill by a large majority, I have every faith that they represented the views of the country much more than this House.

THE HONOURABLE SIR MANECKJI DADABHOY      Why are you here ?

THE HONOURABLE MR V RAMADAS PANTULU      Every Member who sits in this House, I submit, need not share the views of the Honourable Sir Maneckji Dadabhoy. People may differ from him and still they may be in this House. And I claim to be in this House to represent the views of my constituency and my country as I understand them to be. Sir, as I said, the country is there to judge between the views of my friend Sir Umar Hayat Khan and myself, and I shall leave it there.

Then, Sir, I come to the Honourable Mr Crerar's observations. He said that he put warmth into his speech on account of the experience he had as a District Magistrate for a number of years and he spoke feelingly because of the experience which he gained of riots as a district officer, and I see that my Honourable friend Mr Dutt has done the same thing. But I must point out that I adhere to the view that the "man-on-the-spot theory" is a very fallacious one and that the people who ought from their very situation and experience to know the best and the most know the least and the worst. These are the words of the great statesman, Lord Gladstone. And I also rely upon the observation of Lord Morley that the Executive in this country have an inherent repugnance to law and lawyers. Therefore, Sir, I am not prepared to give any great weight to the opinions that they express.

6 P.M.

My Honourable friend Mr Crerar has pointed out that I made a mistake in stating that the rules regulating the use of fire-arms are on the Statute in England. When I was speaking of bringing Indian law into conformity with English law, all that I meant was that the Bill seeks to embody in it the provisions of common law laid down in the Ackton Hall Colliery dispute and other decisions and the King's Regulations. If I used the word Statute it was merely a slip of the tongue.

Then with regard to this question of the English law being applied to India, the Government do not seem to know their own mind. One member of the Government tells us that the English law need not be adopted in India, and His Excellency the Commander-in-Chief has very pointedly objected to clause,

1, because as a matter of fact what is sought to be enacted in this is not consistent with English law, namely, the necessity of the Magistrate to give orders with regard to the firing. Very probably His Excellency is right, but I should like to draw attention to the fact that the Queen's Regulations which he quotes have undergone some change as the result of the circumstances reported in the Ackton Colliery case. I know as a matter of fact that the regulations before they were amended, some time ago, did incorporate provisions like the one incorporated in this Bill. I shall read from the King's Regulations

"All commands to the troops are to be given by the officer. The troops are not, on any account, to fire excepting by word of command of their officer, who is to exercise a humane discretion respecting the extent of the line of fire, and is not to give the word of command to fire, unless distinctly required to do so by the *Magistrate*."

That was the law. If it has subsequently been changed in England, there is no reason why we should adopt the change in the English law, only in this matter, when the Honourable Mr. Crerar tells us that we need not adopt the English law in regard to the other provisions of the Bill. Therefore it seems that doctors seem to differ, some ask us to follow the English law and some ask us not to follow the English law.

The Honourable Mr. Crerar asked me a question for whose benefit this Bill was intended, and what the benefit was? My answer to that is that it is intended for the benefit of both the citizen as well as the officer who acts under its provisions. The citizen is to be protected against improper and excessive use of the powers vested in the hands of an officer who purports to act under the authority conferred on him, and the officer is protected from being harassed or otherwise unduly interfered with in the discharge of his duties. Both these principles are well borne in mind by the author of this Bill which has received the sanction of the Assembly. I also make no secret of my belief that unless some such provisions are enacted, Indian life will be considered somewhat cheap. Even sometimes the bureaucracy may not hesitate to use unconstitutional violence to put down constitutional political agitation, and I accordingly consider it a very sound measure.

With regard to the question of the warning, I have not heard any new arguments. I only heard one from the Honourable Nawab. He says either the crowd is dangerous or it is not dangerous. If the crowd is dangerous, fire, if it is not dangerous, don't fire. He does not think that there is a possible alternative. The crowd may be dangerous but not so dangerous as to require immediate firing upon without warning. It reminds me of a case where a question was put by a lawyer: "Did you cease beating your father, yes or no?" I regret that a soldier like the Honourable Colonel Nawab Sir Umar Hayat Khan could not see the possibility of a crowd being not sufficiently dangerous to warrant immediate firing. I think it is a common occurrence.

As I have not heard anything against the remarks I urged in my opening speech with regard to the necessity for "warning" that it is recognised in the common law of England, that it is consistent with the spirit of the King's Regulations, that it is consistent with the spirit of executive orders, I do not think it necessary to labour the point any further.

Then with regard to the next thing about the report to be submitted of the occurrence within 24 hours Mr Crerar has objected to that very simple provision in this Bill. I find the Home Member, Sir Alexander Muddiman, in the debate in the Assembly accepted the principle of that provision and throughout his speech the Honourable Home Secretary took up a much more militant attitude than his Chief took in the Assembly. I suppose it is a compliment to the pliability of this House.

Then with regard to the last and most important provision, namely, freedom to prosecute, the arguments that I have heard are not legal but psychological. My friends Mr Dutt and Mr Crerar think that all humanity stands apart from Indian humanity. Human nature is similar all over the world, therefore to transgress the bounds of law and go into psychological conditions is indefensible. I refuse to admit that Indian humanity differs in any way from humanity elsewhere. It has been said more than once that whenever this freedom is given to Indians to prosecute a man, it is immediately abused. May I ask why? May I put the same question which Mr Jinnah put to the Home Member in the other House. "Why does he think that this country is composed of such wicked people and such undesirable people, that when you come to an honest judgment, a *bona fide* decision in the best interests of the people over whom you are appointed as an officer to exercise your authority, human nature is so low that you will not be vindicated by the people of this country?" Are we so ungrateful, so wicked, so immoral, so low and undesirable? My emphatic answer is that such a charge is unfounded and unworthy of a House like this.

Then, Sir, I will only refer to one statement made by the Honourable Sir Maneckji Dadabhoy. He said that this is an attempt to make the Executive entirely impotent. He said that there were Executive orders that would suffice, and any attempt to fetter executive action by legislation would make the Executive impotent. The Honourable Sir Maneckji Dadabhoy affects to be more loyal than the King. I never heard such an argument. Are executive orders intended to be obeyed or not to be obeyed? If they are intended to be obeyed, where does the harm lie in embodying them in the Statute? If they are not intended to be obeyed, all the more reason to take steps to see that they are obeyed by putting them in the form of a Statute.

Therefore Sir, I really do not see any point in what Sir Maneckji Dadabhoy said. We are all equally anxious that the peace of this country should be preserved, and that our homes and hearths and our women and children should be protected from the violence of infuriated mobs. Therefore there is no reason why we should be less anxious about the peace in this country than he is. I assure him every Indian in this country is equally as anxious as he is that executive officers' hands should not be weakened and that the peace of this country should not be disturbed by riots. We have also got the welfare of the country at heart, but at the same time we desire to see that, while we have peace and order, we do not unnecessarily or unjustly inflict injury upon citizens. I have already alluded, Sir, to the various safeguards the executive officers have got under the law. The *Exceptions* in the Penal Code practically give them immunity. There is

against an officer and what you want is that the safeguard that you must invoke the aid of the Executive Government, on whose behalf the officer is really acting, to sanction this prosecution, should not be slightly relaxed. Human nature being what it is, in India as elsewhere, it will be impossible to get the Executive Government to sanction the prosecution. What you are really doing is you are depriving the Courts of their legitimate jurisdiction to punish offenders, and if you are not content with all these safeguards, it shows you are not attaching sufficient value to the sanctity of human life.

Sir, I have very little more to say. I only wish to point out that it seems to be by some strange coincidence that this Council, which began with debates on the repeal of the repressive laws, and the enactment of a Bill for the regulation of fire-arms, is closing with the consideration of the same measures, and that the Right Honourable Srinivasa Sastri, whose place I have the honour to occupy here to-day, moved in these matters and inaugurated legislation in both these matters. But this Council seems to have had better notions about the liberties of the people then and gave the Right Honourable Srinivasa Sastri greater support than they have been pleased to accord to me to-day. I hope we shall not be liable to the charge that we ended worse than we began. I hope that even now, the Government will allow the consideration of this Bill to be taken up so that they will give the Honourable Members of this House an opportunity to move amendments to certain clauses so as to remove objectionable features, if any, and if the sting is in the tail, the tail can be cut off. It will be for Honourable Members to do so. I hope this Bill will not be killed in its infancy. Many of the Bills which were given birth in the Assembly have been killed here ruthlessly, and I hope you will not add to your past record of infanticide in this House, and I earnestly hope that this Bill will be allowed to be considered on its merits, whatever changes it may undergo in the course of the debate. With these words, I commend the motion to the consideration of this House.

THE HONOURABLE MR J CRERAR. Sir, the hour is late, the merits of this Bill have been very fully discussed from every point of view and I think the House has made up its mind. I therefore do not propose to detain it except to make one observation. Two Honourable Members—and I regret that among those two should be my friend Saiyid Raza Ali, who in other respects spoke in terms of the greatest courtesy and consideration—have suggested that Government, in opposing this motion, have rejected in a summary, or propose to reject in a summary, in a contemptuous manner, a Bill emanating from another place, and promoted in that other place by a very eminent lawyer. Now, Sir, the only observation I wish to make is that that imputation is entirely undeserved. I leave it to the justice of the House to determine whether the grounds on which this measure has been opposed from these Benches have not been grounds relating solely to the merits or demerits of the measure itself, and not to any other extraneous consideration whatsoever. Secondly, it is surely perfectly well known to such experienced lawyers as my Honourable and learned friend from Aligarh and the Mover of the motion that, if this House passed the motion for the consideration of this Bill, the House would be committed to the principles of the Bill. My Honourable friend complains that by refusing to pass this motion, we are

refusing even to take the Bill into consideration. He knows perfectly well, if the House passes the motion for consideration, it definitely commits itself to the principle of the Bill. I endeavoured to explain why the principles of the Bill were objectionable, and it is because I think the principles of the Bill are in the highest degree objectionable that I have asked the House to reject the motion for its consideration.

THE HONOURABLE THE PRESIDENT      The question is .

“ That the Bill to provide that, when fire arms are used for the purpose of dispersing an assembly, preliminary warning shall, in certain circumstances, be given, as passed by the Legislative Assembly, be taken into consideration ”.

The motion was negatived

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*Wednesday, 16th September 1925*

# VALEDICTORY SPEECHES ON THE IMPENDING RETIREMENT OF THE HONOURABLE SIR NARASIMHA SARMA

**THE HONOURABLE THE PRESIDENT** With that decision this, the first Council of State constituted under the Government of India Act, has disposed of the last item on the last list of business which will be laid before it for its consideration and disposal. Before the Council of State reassembles for the transaction of business it will have gone through the turmoil of a general election. I should like to take this opportunity of wishing Honourable Members goodbye and all happiness whatever they may be doing and wherever they may be. No one can foresee what will be the constitution of this House when it reassembles, but I for my part would like to say that if I am here myself, the more old friends and the more familiar faces I see on these Benches, the happier I shall be. Whatever may be the constitution of the House on that occasion there will be so far as we know one notable absentee. I think I am correct in saying that the record created in this House by the Honourable Sir Narasimha Sarma is in one respect unique. He is at all events the only official who from the day of the inception of this Council has without a break to the day of its dissolution been a Member of the House. I do not intend to detain the House but I think Honourable Members will agree with me that they individually and the House as a whole owe to the Honourable Sir Narasimha Sarma a deep debt of gratitude. I think that it is largely due to his sober and dignified demeanour, to the invariable courtesy which he has shown towards the House and towards individual Honourable Members, and I should like to add also towards the Chair, that this House has acquired a reputation for possessing a calm and dignified atmosphere. I think the House would agree with me if I say that some time we should like to see the Honourable Sir Narasimha Sarma back here. (Hear, hear.) As to that he knows his own mind. I wish the Honourable Member and our Honourable Leader goodbye and all prosperity and happiness in the life to which he is now retiring.

**THE HONOURABLE DR. SIR DEVA PRASAD SARVADHIKARY** (West Bengal Non-Muhammadan) Sir, but for your concluding remarks I was going to have the temerity of differing from the Chair, which we are not permitted to do on questions of rulings, though at times my reasoned private inclinations are to question them. I did not want to agree with you, Sir, that that notable absence to which you have referred should materialise, but taking the cue from what you concluded with I sincerely trust that Sir Narasimheswara Sarma, to give his full name, will once more be, I shall not say, with us,—for “few few shall part where many meet”—but will once more come back, not on those Benches that he now adorns but with those who will be taking our places on this side of the House and give the House that lead that it sometimes lacks.

Sir, in dispersing to-day we do not disperse with the assured conviction and firm assurance that those of us who came here on behalf of our constituencies have been able to do our duty by them according to our lights. Our

defeats have been many, our victories few, but the defeats have had environments that gave them the credit of more than victory. We have done our best to discharge difficult and delicate duties and if we have failed oftener than not it was because of odds over which we had no control. With regard to Sir Narasimheswara Sarma's services I have had occasion during the last few days to refer to them not merely by way of farewell laudatory remarks but as a business proposition. Not merely as the amiable gentleman, and the hospitable host that we have known him to be, will this House miss him but much more. The Departments of which he has so successfully been the Chief for a long time will miss him much. Though he is not in the Agricultural Department now, his achievements there still inspire it. His services with regard to agriculture, to forest research, and veterinary research have been considerable, and last but not the least his loyal, noble and strenuous efforts to get India better honoured and more respected abroad though they will never be known to their fullest extent have been invaluable. Even what little we are permitted to know entitles him fully to the gratitude which you have already bespoken on our behalf. We wish him goodbye and all success and prosperity, not merely in his distant home, but once more in the turmoil of public life from which he had been absent for some few years, but to which he will assuredly come back.

Sir, I referred to his full name. I have now and again looked upon him in the way that our philosophers contemplated his tutelary deity after whom he takes that name "Ugram, Veeram, Mahavishnum, Jwalanlam, Sarvatomukham—Nrisenham Vishanam Vadram Rudra Murtim Namamyaham. Gentle yet firm, looking at all sides, fearsome at times but quiet, he watches all interests. That was how the devotion of man conceived his tutelary deity and he has been true to the ideal.

We thank you, Sir, for the kind wishes that you have extended to us. Those of us who will come back will, I am sure, be pleased to see you in the Chair, helping us in the difficult duties here.

THE HONOURABLE MR. PHIROZE C. SETHNA (Bombay Non-Muhammadan). In the lives of all of us there comes a time of sorrow and also of great joy. All those who have worked in this Council with Sir Narasimha Sarma have regarded it as a matter of joy to have been associated with him and naturally there is sorrow to-day at losing him from the Official Benches. One who has led so active a life as has Sir Narasimha Sarma is bound to return to public activities after a few months of well deserved and well earned rest, and those of us who may be able to recapture our seats at the coming election or may secure recommendations will be more than delighted to welcome Sir Narasimha Sarma to the non-official Benches of this Council, for by his presence on this side of the House he will greatly strengthen our ranks. Sir Narasimha Sarma is one of those who has always endeavoured to go to the furthest length he can to meet the non-official Members in their opposition or in their demands. He is one who to the virtues of firmness and of judgment adds the companion virtue of fairness of dealing. To him

service rather than self-interest has been the watchword of life. He has a sweet tolerance and a kindly courtesy which has greatly endeared him to us all. In the delineation of one's character it is perhaps well to eliminate "ifs" and "buts." The "ifs" and "buts" in Sir Narasimha Sarma's case are negligible. He has throughout been an unostentatious worker and has believed in doing his duty with a sincerity of purpose and according to his best lights. Life's greatest joy is in the anticipation of each day's accomplishments and the truest contentment comes in the momentary satisfaction of work well done. Such satisfaction must have come to Sir Narasimha Sarma from day to day during the six strenuous years of his Membership of the Executive Councillorship of the Government of India, where he will leave behind the impress of his good work. Sir Narasimha Sarma has still many years of great usefulness before him. We trust all his hopes and expectations will be realised and we wish him all that he wishes himself.

THE HONOURABLE MR J CRERAR (Home Secretary) Sir, I desire to say only a few words on this occasion simply to associate myself as a European official member of this House and on behalf of my colleagues with everything that has been said regarding the parting which we so sadly apprehend with our Honourable Leader. An official Member of this House, especially a Secretary to the Government of India, is necessarily brought into very close contact with Members of Government, and more particularly with the Member of Government who is the Leader of this House.

And, Sir, if I may do so without presumption or impertinence, I should like to say that we, who have been brought so closely into contact with Sir Narasimha Sarma, not only in this House but in the discharge of his great responsibilities in the Government of India, have been most profoundly impressed by his consistent and unfaltering sincerity of purpose. (Applause) It has necessarily happened,—and I reveal no secrets of State,—that a Secretary to Government and an Honourable Member of the Executive Council,—do not always see eye to eye. But if on any such occasion we had differences of opinion with Sir Narasimha Sarma, whichever view prevailed, we have never had the slightest doubt that the view for which he contended was a view on which he had long and deeply reflected, and that it honestly and deliberately arrived at on conviction. On the other hand, we have come very closely in contact with Sir Narasimha Sarma in his private life owing to his lavish and kindly hospitality. (Applause) As a near neighbour of Sir Narasimha Sarma, I have constantly shared, and I may particularly mention, if I may be permitted to mention that, my small family has regularly shared, in Sir Narasimha Sarma's hospitality. That is a characteristic which those who have met him frequently will never forget. Strong, honest, persistent and sincere in his public life, Sir Narasimha Sarma has also held up to us a high ideal of private life.

"His life is gentle and the elements so mixed in him that nature may stand up and say to all the world 'This is a man'."

THE HONOURABLE SAYID RAZA ALI (United Provinces Mubammadan), Sir, I associate myself with the remarks that have fallen from you and from my Honourable colleagues as regards the Honourable Sir Narasimha Sarma. The only additional remark that I can perhaps usefully make on this occasion

is that at Delhi and Simla, when Sir Narasimha Sarma leaves us, he will leave a host of friends and enemies hardly any (Applause)

THE HONOURABLE SIR NARASIMHA SARMA (Law Member) Sir, I am deeply touched by the generous manner in which very kindly references of appreciation have been made to me by you, Sir, and by all sections of the House, official as well as non-official, and I do not know how in adequate terms to convey my grateful feelings to the House and to its President for all the good things they have been pleased to say of me. If I were a vain man, I should certainly think that there is something in me which entitles me to the generous consideration of my friends and fellow-workers. But I know the innate, gentle and cultured disposition of both the Indian and the European Members of this House, and I shall not be certainly so vain as to imagine that I deserve even a fraction of what has been said about me. But, Sir, I appreciate in the fullest degree the generosity of disposition, the warmth of heart, and the kindness of manner which have dictated the expression of those sentiments. I am proud indeed to have been associated with the work of this Council throughout its life, during the first term of its existence. The Council has eminently fulfilled the functions for which it has been designed. It has been designed to be a revising Chamber, to be a reflection of India as she is, to bring within a small focus all interests, commercial, landholding, intellectual, official and otherwise, in their true proportions, so that, when the work of the Assembly comes up to it for revision, it may exercise its judgment in such a manner as will secure confidence in every one interested in the stable progress of this country. We have had distinguished soldiers—we have now a distinguished soldier sitting on these Benches,—need we say that we are proud to own a Field Marshal, the first Field Marshal belonging to the Indian Army (Applause),—we had the late Lord Rawlinson, one of the most distinguished soldiers who adorned these benches, we have a Colonel and a Major who are unofficially in charge of the protection of the frontiers. We have had commercial magnates from Calcutta, Bombay and Madras, reflecting the commercial opinion of all classes, European and Indian alike. And the Government have not failed to notice, I may assure the House, the rising patriotic sentiment amongst the commercial classes, both European as well as Indian, which makes them unite in the defence of their interests and what they conceive to be the national interest. We have had distinguished lawyers in the past, and we have them now, we have many eminent officials who work the real machinery of the Government of India and of the provinces, and we have representatives of the Press notable for their achievements.

Sir, the landholding interests are, I think, one of the stable factors of society in this country, and they cannot complain that they have been omitted. I am referring to these factors merely for the purpose of showing that India, as she is, is represented in true proportions, and, if sometimes Members as a whole are unable to see eye to eye with others, who wish to see the pace of reform a little more brisk and forward, the country is likely to regard that the deliberate judgment of this House truly reflects Indian opinion as it is, although some may think that Indian opinion as it is is not as progressive as perhaps they may wish it to be. Men from this House have been chosen by the Government to fill distinguished places and have earned distinction for this House. The Right Honourable Srinivasa Sastri has been sent by the Government from this

House on a mission abroad and has brought notable distinction to this House Sir Alexander Murray, Sir Maneckji Dadabhoy, Mr Kale and others have served upon committees directly interested in the future material progress of this country. There have been others who have been appointed to do work in other directions Sir Arthur Froom has been appointed Member of a Committee which sat to evolve a progressive line of policy with regard to constitutional reforms Mr Phiroze Sethna, I am sure, will distinguish himself on the Skeen Committee and elaborate for our benefit a progressive line of policy, to which I hope His Excellency the Commander-in-Chief will be able to give his consent These are distinctions of which any House may be proud, and I am sure that those who have adorned these Benches will have the good fortune to be returned to this House to work for the benefit of the country May I, Sir, join you in wishing them God-speed in their endeavours, in wishing them success in their efforts to come back here to serve their country and their constituencies, and I hope that when the House next meets, the House will under your able guidance be able to show even greater progress than it may be able to claim during the past five years of its activities

As a Member of the Government who was for sometime in charge of Education and Agriculture, let me say, Sir, that I have derived the greatest assistance possible from this House—greater perhaps than has been possible for the other House amidst its manifold activities to give for the constructive regeneration of this country The criticisms, the constructive help given by the Members, have been very helpful to me in securing funds from that hard-hearted Finance Department, whose representative sat here, a few minutes ago I cannot complain of Mr McWatters He has been very generous to us in our attempts to advance the sugar industry I may repeat that your criticism has always been helpful and I welcomed it and it is one of the most notable achievements of this House, of which I am distinctly proud, that they have been able in this constructive field to do far more than has been possible elsewhere, and I hope that in its future activities this House will devote its attention even to a larger degree than in the past to spheres of activity, which are calculated to promote the economic development of this country There are men and there will be men here eminently suited for that task and if only the commercial men, the landholders and the representatives of all other classes put their heads together to evolve constructive schemes of progress, I think this House will, in addition to discharging their function of a revising Chamber, be undertaking tasks which will ensure far more for the benefit of this country than may be recognised in other quarters

Sir, I have taken up your time and the time of the House rather unduly. I thank you all once again from the bottom of my heart for all your kindly feelings so eloquently expressed and I wish you once again success in your endeavours to employ yourselves usefully as Councillors for the benefit of the State With regard to myself, the Councils have had a peculiar fascination for me I have lived in their midst for the last twenty years and I am sure that with a little rest that fascination will come over me again, and I shall be enabled to toil and work for the benefit of the country along with you and side by side with you I have been a servant of the public for sometime and I hope

during the few short years that may remain to me I shall continue to serve my country and the Crown in the same humble capacity as I have done in the past

*Thursday 17th September, 1925*

FAREWELL ADDRESS OF HIS EXCELLENCY THE VICEROY TO THE  
FIRST COUNCIL OF STATE

His Excellency the Viceroy with the President of the Council having arrived in procession, His Excellency took his seat on the dais

HIS EXCELLENCY THE VICEROY *Gentlemen of the Council of State* — As you will have surmised, my purpose in summoning you to-day is to bid farewell to you, who by to-day's proceedings are bringing the final Session of this Council to a conclusion. You came into existence shortly before I arrived. I have had the opportunity of meeting most of you on many occasions both public and social. I have made the acquaintance of nearly every member, and this acquaintance has led in various cases to a more intimate relationship, even to friendship. I bid you farewell with regret. As is inevitable, the coming elections must bring some changes in the composition of your body. Whether these are many or few, I do not doubt that the record of this, the first Council of State, will bear honourable comparison with any of its successors and will endure as an example and a lesson in the sober and temperate exercise of the wide powers entrusted to it by the Constitution.

It is interesting to pause and recall some of the developments connected with the birth of this Chamber. Those of you who have followed the fortunes of the Government of India Act, 1919, from the time of the introduction of the Bill in the House of Commons, will remember that as originally planned the Council of State was intended to be a body in which the Government of India would be assured of a majority, for under its constitution the Council of State was to consist of the Governor General and 56 Members, of whom as many as 28 might be officials. Had this conception prevailed, it would have enabled me to have taken part in the deliberations of this House instead of having to summon you when I wished to address you. But the Joint Committee on the Bill revised this proposal and, to use their language, "re-constituted the Council as a true Second Chamber." This point was also emphasised by His Royal Highness, the Duke of Connaught, in his speech on the inauguration of the Indian Legislature, in the following passage:

"In the Council of State it has been the intention of Parliament to create a true Senate, a body of elder statesmen endowed with mature knowledge, experience of the world and the consequent sobriety of judgment. Its functions will be to exercise a revising but not an overriding influence for caution and moderation, and to review and adjust the acts of the larger Chamber."

Your numbers are 60, of whom 33 are elected, and of the nominated members not more than 20 may be officials. Of those nominated members, one, the representative of Berar, is for all practical purposes an elected member and the number of officials has been reduced as low as 17. I cite these facts for the purpose of showing that, as the discussions on the form of the new constitution developed, it was decided that the Government of India should

surrender its majority and trust the Council of State, and further that after the constitution of the Council of State was finally settled by Parliament, the Governor General advanced again on the path of trust by refraining from nominating the full number of officials allowed by the Act and nominating non-officials in their place

It has been a source of great gratification to myself as Governor General, in whom the right of nomination is vested, and to my Government that this policy of trust has been amply justified. At the same time it should be observed that the nominated non-officials have not sacrificed their opinions to their position. The division lists of this Council furnish an abiding record that the nominated non-officials have not hesitated to vote against Government at the dictates of their reason or their conscience. On the other hand, they have not shrunk from shouldering the burden of temporary unpopularity, which too often is incurred by those who, undisturbed by waves of passion and prejudice, have applied a calm and sober judgment and have voted with Government when they were convinced that the higher interests of the country required it, when they were satisfied that these interests were being faithfully served by Government. The nominated non-official members have, in fact, exercised their functions with the same sense of independence and responsibility as the elected members of the Chamber, and I can therefore, in what I am about to say regarding the work of the Council of State as a whole, deal with all the non-official members of this Council as forming one body of men with firm principles and broad outlook, keenly alive to the responsibilities of their position as members of a Second Chamber in which they command an overwhelming majority.

I am well aware of the wide field of the interests you represent. I see here what I may almost call the hereditary element represented by the great Zemindars, I see the leaders of the learned professions and I see men who have climbed the steep ladders which lead to success in the regions of commerce and industry. I am grateful to you, Gentlemen, who have given liberally your valuable time, and who have made personal sacrifices to this end, and I am grateful to those great commercial concerns which have allowed their members to attend this Council. To no small number of you also I have to render thanks on behalf of my Government for services ungrudgingly rendered on Commissions and Committees of the utmost importance. I must include in these expressions of thanks, not only those who are at present members, but also those who by reason of other duties, or because of ill-health, have been precluded from retaining their seats in the Council. I also include those who have been removed by the hand of death, whose memories are cherished by their families and friends and colleagues.

So far I have referred only to non-official members and for obvious reasons, but I should indeed be failing if I do not pause to pay my tribute of admiration and gratitude to the official members of this Chamber, who have throughout striven ardently and persistently to ensure success for the Reforms and have given their valuable assistance in the deliberations of this Chamber.

It has been a matter of great regret to me that, in the comparatively short space of less than five years, circumstances have compelled me to appoint no less than three Presidents. My only justification for taking away so quickly

that which I had given was the interests of the public service of India. You will admit, I am sure, that on each occasion I have sought to give again of the best that was available for my selection. To Sir Alexander Muddiman, your first President, we owe much, for he occupied the Chair for a sufficiently long time to carry the Council well on its way, and to establish for it a worthy tradition of dignity and courtesy and no less a record of high efficiency. He will be remembered as the first President of this new Chamber who set an example which others will assuredly be glad to follow. To find a suitable successor to fill his place was a difficult task, and I had no alternative but to give you one of the Secretaries of the Government of India. Hardly had I had time to congratulate myself on the success of Sir Montagu Butler as President of this Council when he became Governor of the Central Provinces, and again with much regret and searching of heart I did what I could to make amends to you by surrendering yet another of the trusted Secretaries of Government—Sir Henry Moncrieff Smith, who now presides over your deliberations with the serenity and distinction fully expected by all who had become familiar with his capacities and with his efforts since the inception of the Reforms. Alas! that there must be so many farewells! The Leader of your House, Sir Narasimha Sarma, has more than completed his term of office and will soon be leaving you and, to our regret, me and my colleagues in the Executive Council. We shall miss him very much, not only at our meetings but generally in the work carried on by the Executive Government. No Viceroy ever had a more loyal, honest and independent-minded colleague who, whilst never forgetting his obligations as a Member of the Council, always remained true to his duty to his Indian compatriots, and faithfully presented their views in a manner that not only commanded great respect, but also deserved and received the closest attention. He is a genuine Indian patriot and a true servant of the Empire, with a broad outlook on human affairs aided by a zeal for research in the dusty pages of blue books and the keen and fearless judgment of a man whose paramount desire is to advance the interests of India and the Empire.

In dealing with the measures that have come before it this Council has shown alike qualities of fearlessness and sobriety. Whilst you have been loth to interfere with measures which did not involve any vital principle, you have not hesitated to reject measures which in your calm and considered judgment and according to your conscience threatened the foundations of good government and would not truly serve the best interests of India. The need for the exercise of your powers for either of these reasons has fortunately been infrequent. The functions of a Second Chamber have already been indicated in the quotation I made from the speech of His Royal Highness the Duke of Connaught. There should be no tendency to vexatious interference with the proceedings of the other House, and yet the Second Chamber must not shrink from exercising the powers entrusted to it when matters of vital interests are at stake. In other respects it may often be able to make suggestions which may be recognised by the other Chamber as improvements. You have performed these difficult functions with a due sense of responsibility and have brought your judgment to bear upon the problems that confronted you with the sole desire to serve your country to the best of your ability.

The Indian Legislature, as constituted by the Government of India Act, consists of the Governor General, the Council of State and the Legislative



Assembly Looking back on the history of the Indian Legislature during the past four and a half years, it is to be recorded that there has been a large measure of agreement achieved between the component bodies—a result as creditable to the one Chamber as to the other Differences there no doubt have been, often they concerned practical measures which were being discussed on their merits, and these have usually been found capable of adjustment It is mainly on questions of Finance and of the Constitution that the Chambers have found themselves in disagreement I shall not dwell on the differences relating to finance which in the opinion of many competent observers rather presented a vehicle for the expression of political views than revealed any fundamental divergence of opinion on questions of revenue and expenditure

You have within the last few days given expression to the opinions you hold regarding the Constitutional problem When I addressed you in conjunction with the other Chamber at the opening of this Session, I strove to make plain what were in my view and, be it observed, also in that of the Secretary of State, the necessary conditions for an advance I shall not to-day repeat the arguments or enter into controversial discussion The Resolution proposed by the Government and accepted by this Chamber will, in accordance with the statements made to this effect, be duly considered by my Government together with the amendment carried by the Legislative Assembly The conclusions of the Indian Legislature must be considered as a whole, attributing due weight to that part which proceeds from the Council of State and, I believe, represents no inconsiderable proportion of the intelligent and stable elements in the country Whilst I do not intend further to discuss the Constitutional question with you to-day, I desire to express my satisfaction that from the reports to me of your debates you have rightly interpreted the observations I made regarding my earnest desire for the development of a spirit of friendly co-operation and good-will My object, as you have understood, was not merely to emphasise that this was the quickest and the surest way of obtaining the appointment of a Royal Commission earlier than 1929, but also—and of even greater importance—of creating a more favourable atmosphere for the holding of this momentous inquiry whenever it may take place

In times of special difficulty, as times of transition must necessarily be, you have rendered a high service to your country by fulfilling to the best of your judgment the responsible role assigned to you by the Constitution You have dealt with the important affairs which have come before you according to your conscience and in a spirit of good sense and moderation As I understand your views, you stand for progress and the political advancement of India as rapidly as can be achieved with due regard to the dictates of prudence and wisdom and the special conditions appertaining to India It is upon these broad-based foundations that you desire to construct the road to advance and to erect the superstructure destined to crown the efforts for the greater contentment and happiness of the Indian people In the knowledge that you have throughout acted in full accordance with these ideals and have been animated by a lofty sense of duty and a steadfast determination to advance the interests of India, I regretfully bid you farewell and cordially wish you all happiness

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## PART III

## QUESTIONS AND ANSWERS

*Wednesday, 26th August 1925*

## COLOUR BAR AGAINST INDIANS IN SOUTH AFRICA

88 \*Maulvi Muhammad Yakub (a) Are the Government of India aware that the Cape Town Assembly has attacked the most sensitive point of India's honour by passing the Mines and Works Bill, laying down the colour bar against Natives and Asiatics ?

(b) Have any steps been taken, or are any steps under the contemplation of the Government of India to vindicate the country's honour ? If not, why not ?

Mr J W Bhore (a) and (b) As soon as the terms of the Bill became known to the Government of India they made energetic representations to the Union Government from the Indian point of view. As the Honourable Member is probably aware, the Bill was rejected by the South African Senate. The latter part of part (b) of the question does not, therefore, arise.

Sir Purshotamdas Thakurdas Are Government aware that although the Bill has been rejected the action taken by the Government concerned is practically one which is on the lines of the Bill which has been rejected ?

Mr J W Bhore I am afraid I do not know to what action my Honourable friend refers. Does he refer to the new Bill that has recently been introduced in the Union Parliament ?

Sir Purshotamdas Thakurdas I refer Sir to the Bill which has been rejected by the Upper House in that country.

Mr J W Bhore I do not know what action has been taken, to which my Honourable friend refers in respect of the Bill which has been rejected. All that I am aware of is the rejection of the Bill, not of any action taken on that rejection so far.

Sir Purshotamdas Thakurdas Not action taken on that Bill, other executive action which has been taken by that Government is practically on the lines of what was embodied in the Bill that has been rejected. That is the complaint we hear from Indians in that part.

Mr J W Bhore I am afraid I am not aware of the executive action to which the Honourable gentleman refers but I shall make inquiries.

## RELEASE OF POLITICAL PRISONERS IN BENGAL

89 \*Maulvi Muhammad Yakub (a) Has the attention of the Government of India been drawn to the suggestion made by Mahatma Gandhi to the effect that persons imprisoned or detained under the Bengal Ordinances and Regulations may be released as a mark of respect to the memory of the late Mr C R Das ?

(b) Do the Government of India propose to move the Government of Bengal to take steps in this direction in order to allay the feelings of the people of Bengal and to create a new era of peace and goodwill in the Province ?

**The Honourable Sir Alexander Muddiman** With your permission, Sir, I will answer together questions Nos 89, 118 and 296 which raise substantially the same issues

It is not the intention of the Government of India or of the Government of Bengal to continue the measures taken under the Bengal Ordinance or the Bengal Criminal Law Amendment Act against persons concerned in revolutionary activities of the nature defined in these enactments, for one day longer than is in their opinion necessary in the interests of public security

The Government of Bengal, with the approval of the Government of India, have been and are pursuing a consistent policy of mitigating the degree of restraint imposed according as the circumstances of individual cases permit, but any such comprehensive action as is suggested by the Honourable Members' questions is not now feasible

**Mr K Ahmed** Will the Honourable the questioner try to keep alive the dignity of his province in respect of the great needs and requirements of Bengal by liberally subscribing himself and raising a fund from his province for cherishing the memory of the late Mr C R Das ?

#### RELEASE OF POLITICAL PRISONERS

†118 **\*Mr. B Venkatapatiraju** Will the Government be pleased to state when they propose to release the political prisoners who were not convicted of any violence whatsoever ?

#### RELEASE OF POLITICAL PRISONERS IN BENGAL

†296 **\*Mr C S Ranga Iyer** (a) Has the attention of the Government of India been drawn to Earl Winterton's reply in the House of Commons to Mr Dav's question calling attention to Mahatma Gandhi's "appeal to the Government of India on the occasion of the death of Mr Das for the release of the political prisoners" ?

(b) Are the Government aware that Mahatma Gandhi referred therein to the Regulation III and Ordinance prisoners in Bengal ?

(c) Do the Government of India propose to take any steps to release the Regulation III and Ordinance prisoners in Bengal ?

(d) If not do they propose to ask the Government of Bengal to bring the said prisoners to trial ?

(e) Have the Government of India received any communication from the Secretary of State for India on the question of the release of the political prisoners in Bengal ?

(f) Was the statement of Earl Winterton in the House of Commons that Lord Birkenhead did not consider Mahatma Gandhi's suggestion practicable made after consulting the Government of India ?

(g) Will the Government be pleased to lay on the table the correspondence between the Government of India and the Secretary of State on the subject ?

#### RESOLUTION RE GRIEVANCES OF INDIANS IN TANGANYIKA

95 **\*Mr B Das** With reference to the Resolution moved in the Assembly regarding the grievances of Indians in the Tanganyika Territory, will Government be pleased to state whether they have come to some definite understanding with the Colony in this matter ?

**Mr. J W Bhore** In the debate on the Resolution referred to, the Government of India indicated that they were not disposed to consider the advisability of raising this question with the League of Nations so long as the method of patient negotiation with the Colonial Office held out any prospect of a satisfactory settlement. They have now received intimation that the Colonial Office have approved the proposal of the Governor of Tanganyika Territory to appoint a Committee to investigate the question of trade license and the possibility of raising by alternative taxation, the revenue at present accruing from the profits tax. Both European and Indian Trade Communities will be represented on the Committee.

**Sir Purshotamdas Thakurdas** With the report of that Committee the Resolution that was passed by this Assembly is not concerned. The only question is in case the procedure which was decided upon is confirmed, is the Colonial Office prepared to admit Gujarati as one of the languages in which account books can be kept in Tanganyika? Surely, that is the point, Sir.

**Mr J W Bhore** I am not in a position, Sir to say at the present moment what the Colonial Office are or are not prepared to do, but the position at the present moment is this. The Committee will consider the question of the abolition—the entire abolition—of the profits tax. If that tax is abolished I think my Honourable friend's objection will have been completely met. If on the other hand it is not abolished we still hope that it may be possible for the Colonial Office to accept the recommendation made in the Ormsby-Gore Committee report that Gujarati should be recognised as a language in which accounts could be kept.

**Sir Purshotamdas Thakurdas** I am afraid Sir I must put one more supplementary question. Does the Honourable Member realise that the rules will come into force on the 1st of April if the tax is not abolished and if the Committee confirm the tax, is there time enough for the Government of India to negotiate with the Colonial Office?

**Mr J W Bhore** I quite realise the point raised by my Honourable friend and I hope there will be time for us to negotiate.

**Sir Purshotamdas Thakurdas** Do I then take it that the Government of India give an undertaking to this Assembly that they will not plead that, since the new Committee which has been appointed submit their report they may be incapable by their not having enough time, to press the Colonial Office to admit Gujarati as one of the languages?

**Mr J W Bhore** The only point upon which I can give an assurance to my Honourable friend is that we will make every endeavour to induce the Colonial Office to accept our suggestion.

**Sir Purshotamdas Thakurdas** I am afraid the Assembly has had too many assurances already. May I ask if the Honourable Member is in a position to give an undertaking that Government are confident that they will not be handicapped by unduly short notice of the new Committee's report because the new rules come into force on the 1st April 1926. I put it to the Honourable Member whether it is really fair to this Assembly again to put before it that there is another Committee which is going to report and then ultimately to say at the 1st April

is so near that the Government of India have not had time to consider the matter

**Mr. J. W. Bhore** : My Honourable friend has made so long a speech that I have not found it possible to follow him exactly in his question. But I can repeat the assurance which I have just given, namely, that we will allow no avoidable delay to occur when the occasion for representation arises - Further than that, I am afraid I cannot go

**Sir Purshotamdas Thakurdas** : I am sure the Honourable Member realises the responsibility that he is undertaking in this matter

**Mr J W Bhore** : I fully realise my Honourable friend's point

**Mr. R K Shanmukham Chetty** : Since the Act will come into operation on the 1st April 1926, have the Government of India represented to the Colonial Government that the operation of this Act may be suspended in case no agreement is arrived at by the Committee? Has any representation been made on that point?

**Mr J W Bhore** : Not on that point

**Mr R K Shanmukham Chetty** : Will the Honourable Member consider the advisability of making a representation on that point too?

**Mr J W Bhore** : I will consider it

#### RIGHTS OF INDIANS IN KENYA

96 **Mr B Das** (a) Will Government be pleased to state whether they have come to some settlement with the Kenya Colony regarding rights of Indians in that Colony?

(b) Is it a fact that the Government of India are deputing an official expert to inspect the Lowlands that have been offered to the Indians as an alternative site for settlement?

(c) Will Government be pleased to state the opinion of the Colonial Committee that was appointed last year over this matter?

(d) Will Government lay the report of that deputation on the table for information of the House?

**Mr J W Bhore** : The Honourable Member's attention is invited to the statement made on the 7th August 1924 by the Secretary of State for the Colonies in the House of Commons, a copy of which was laid on the table of this House on the 3rd September 1924 in answer to Mr B Venkatapatiraju's unstarred question No 342. One Indian has now been nominated as member of the Executive Council and the Indian community have also agreed that provision should be made in the Royal Instructions for the nomination of 5 Indian representatives on the Legislative Council

(b) The attention of the Honourable Member is invited to the reply given by me to Mr Gaya Prasad Singh's question No 41 on the same subject

(c) The Honourable Member is referred to the answer given by me on the 27th January 1925 to Sir Purshotamdas Thakurdas' question on the same subject

(d) The Honourable Member is referred to the answer given by me on the 23rd January 1925 to Khan Bahadur Sarfaraz Hussain Khan's question No 157 on the same subject

**Mr B Das** Are Government satisfied that the rights of Indians are properly safeguarded in that Colony ?

**Mr J W Bhore** The question covers a wide ground, Sir, and I am not prepared to say that we are entirely satisfied with all the conclusions that have been so far arrived at, but they are the best that could be reached in the circumstances and the question, I am afraid, must rest there for the present

#### RACIAL DISCRIMINATION IN SOUTH AFRICA

97 **Mr B Das** (a) Will Government be pleased to state whether they have come to some definite understanding with the Government of South Africa on the question of racial discrimination ?

(b) Do Government contemplate the adoption of measures of retaliation, in case South Africa does not recognise the rights of Indians ?

**Mr J W Bhore** The Government of India have not yet reached an understanding with the Union Government on the general question of racial discrimination

(b) The Government of India are not in a position to state what action they may consider it desirable to take in the event of the negotiations which are now in progress proving abortive

**Mr B Das** Is it not a fact that in South Africa a poll-tax is levied on Indians by the South African Government ? And if that be so, why should not the Indian Government retaliate on the South African citizens residing in India by similar taxes ?

**Mr J W Bhore** My Honourable friend has raised a question which is a very large one and which I submit to the Chair does not arise on this question

**Sir Hari Singh Gour** May I draw the attention of the Honourable Member to a cable I received last night from the South African Congress to the effect that the South African Government are putting into force a measure excluding Indians from all areas except 30 miles from the coast lines and also creating residential areas for the habitation of Asiatics exclusively ? Will the Government of India represent to the South Union Government to suspend all action prejudicial to the Indians till the negotiations contemplated are concluded ?

**Mr J W Bhore** The Government are not aware of the application of the measure to which my Honourable friend refers. I take it that he refers to the Bill which was introduced in the Union Parliament just before it suspended its last sitting. We have telegraphed for a copy of that Bill and I understand that the Bill is now on its way. The moment it reaches us we shall examine it and the Honourable Member may rest assured that we shall take such steps as may be necessary to safeguard Indian interests. The suggestion which he has made will, if necessary, be considered

**Mr R K Shanmukham Chetty** Have the Government of India asked the South African Government to suspend all legislative action till the negotiations are concluded ? Have the Government of India taken any steps to make this representation to the South African Government ?

**Mr J W Bhore** To the best of my recollection, it has not been definitely put forward to them by the Government of India

**Mr R K Shanmukham Chetty** Will the Government definitely put forward this suggestion ?

**Mr J W Bhole** If the Honourable Member had listened to the reply I gave to Sir Hari Singh Gour he would have realised that I have already given an assurance relative to this matter

**Mr R K Shanmukham Chetty** While the Government of India telegraphed for a copy of the Bill that has been recently introduced in the Union Parliament, did they make a representation that the legislative action must be suspended until the negotiations are concluded ?

**Mr J W Bhole** No, Sir, for the reason that the Bill has only been introduced and will not be considered till the next Session

**Mr R K Shanmukham Chetty** Will the Government of India do so ?

**Mr J W Bhole** I have already replied to that question

**Mr R K Shanmukham Chetty** Do they think that it is desirable to take a step of this nature ?

**Mr J W Bhole** My Honourable friend is only repeating the same question in another form I have already given a full reply to the question that he is now putting in reply to Sir Hari Singh Gour's question

**Mr R K Shanmukham Chetty** Is not my Honourable friend also repeating his answer in a different form ?

**Mr J W Bhole** If the Honourable Member will insist upon repeating his question I must obviously repeat my answer

**Mr B Das** May I inquire, Sir, if the Government of India are in any way afraid of the Colonial Government of South Africa or are in any way dictated to by them ?

**Kumar Ganganand Sinha** May I know, Sir, since what date the negotiation is proceeding ?

**Mr J W Bhole** My recollection is that negotiations for a conference have been proceeding since some time in April last

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Monday, 31st August, 1925

GRANT OF THE FRANCHISE TO INDIANS RESIDENT IN AUSTRALIA

262 \***Khan Bahadur Sarfaraz Hussain Khan** With reference to the Government reply to the starred question No 46 asked in the Assembly on the 22nd January 1925, regarding the grant of the franchise to Indians resident in Australia, will the Government be pleased to state the result of the inquiries if completed ?

**Mr J W Bhore** The Government of India are glad to announce that a Bill was introduced in the Commonwealth Senate on the 12th June 1925 amending sub-section (5) of section 39 of the Commonwealth Electoral Act, 1918-1924, by adding after the word "Asia" the words "(except British India)". This measure will give the Commonwealth franchise to subjects of British India at present domiciled in Australia and is the fruition of the hopes held out by the Commonwealth Government to Mr Sastri on the occasion of his visit to Australia in 1922. The Bill was passed by the Senate and read for the first time in the House of Representatives of the Commonwealth of "Asia" the words "(except British India)". This measure will enjoy both the State and Commonwealth franchise throughout Australia, except in Queensland and in Western Australia, where Indians do not enjoy the suffrage in respect of elections for the Lower House.

BOMBARDMENT OF MEDINA

**Khan Bahadur Sarfaraz Hussain Khan** Sir, I have given private notice of the following question

- (a) Has the attention of Government been drawn to the news from (1) Bombay, published in the issue of the *Pioneer* of the 27th August 1925, page 3, under the headings "The Bombardment of Medina", "Bombay Muslim's resentment", (2) Jerusalem and Lucknow, published in the issue of the *Searchlight* of the 25th August 1925, under the headings "Attack on Medina", "Bombardment of mosques", "Prophet's tomb in Danger", "Medina's Bombardment" and "A message to Mussalmans" ?

- (b) If so, are they in a position to give a detailed account of the statements made ?

**Sir Denys Bray** Sir, I have not had time to look up the references the Honourable Member cites but they all relate no doubt to the disturbing reports received within

12 NOON.  
the last few days of events in Al-Madina. Government lost no time in telegraphing to His Majesty's Consul at Jeddah and the High Commissioners, Egypt, and Palestine, for the actual facts. It may be some little time before these can be ascertained with absolute certainty. All that is at present certain is that the disturbing reports are widely current, but I am glad to think that this does not necessarily mean that they are true. Indeed Sultan Bin Saud has issued a categorical *dementi* through his Agent in Cairo stating that only Sherifian troops at Salakh have been bombarded. As soon as further facts are received I will take steps to have them published. I ought perhaps to add this. I have thought it fit to give the contents of the Cairo telegram in the form in which it was received. But I have been unable to verify Salakh, nor have the many Honourable Muslim Members I have consulted, and the name may have been mutilated in transmission.



Tuesday, 15th September 1925

ROCKEFELLER FOUNDATION SCHOLARSHIP

923 \*Mr B Das 1 (a) Has the attention of Government been drawn to the references published in the *Leader*, Allahabad, dated May 26, 1925, regarding the Rockefeller Medical Fellowships ?

(b) Is it a fact that Government selected in November 1922 five Indian doctors to whom Rockefeller Scholarships were awarded, if so was it not the intention to utilize these doctors, after they returned from their Studies, for specialist work, where they were to be of the greatest use ?

(c) Is it not a fact that almost all of these scholars have now returned to India and that none of them has been given work of a specialist nature ?

(d) Is it not a fact that although Dr Mathur took the Doctorate in Public Health from the John Hopkins University, he was on his return to India posted as Health Officer of Benares which is a junior type of public health appointment ?

(e) Is it not a fact that Dr Khan who also took the Doctorate in Public Health has been employed as an Assistant Surgeon, i.e., in the same capacity as he was employed before he left India ?

(f) Is it not a fact that Dr Ediban with the same record as that of Dr Khan was employed on return as an Assistant Surgeon in a dispensary ?

(g) Is it not a fact that Major Sokhey who was trained in biochemistry, on his return, was reverted to military duty in Dera Ismail Khan ?

(h) Is it not fact that Dr Mehta who was specially trained in laboratory work has returned and is still without employment ?

2 Are the Government prepared to consider a definite scheme to use the services of such experts, and have Government taken any steps to ensure that these highly trained doctors, who are all too rare in the country at present, are employed in specialist posts ?

3 Do Government contemplate sending another batch of scholars and will it take steps to formulate a scheme before sending out a fresh batch ?

4 Have Government received any representation or application from any of the five scholars who have already returned and if so what action has been taken on them ?

Mr J W Bhore 1 (a) Government have seen the comments which appeared in the *Leader* newspaper on the 25th and 27th May 1925

(b) Five candidates were selected, but the General Director, International Health Board, Rockefeller Foundation, was informed that employment under Government could not be guaranteed in any particular case though every endeavour would be made to give opportunities to them on completion of their studies to utilise their special training

(c) The reply to the first part of the question is in the affirmative and to the second part in the negative

(d) Dr Mathur was awarded the degree of Dr of Public Health and has been posted as Medical Officer of Health, Benares Municipality. The appointment is in the First Class of the Provincial Service of Medical Officers and not of a subordinate or unimportant character.

(e) and (f) Yes

(g) Major Sokhey was reverted to military duty temporarily, but is now attached to the Haffkine Institute at Bombay to direct the Biochemical section

(h) Dr Mehta has been employed by the Punjab Government as District Medical Officer of Health, Montgomery

2 and 3 As the Honourable Member is no doubt aware public health and medical administration are now transferred provincial subjects and it is not possible for the Government of India to formulate a scheme for utilising the services of sanitary specialists. In calling for nominations this year for fellowships of the Rockefeller foundation it has been impressed on all Local Governments that candidates should only be recommended if they can be reasonably assured of suitable employment on return.

4 A representation was received from Dr Ediban and Local Governments have been asked whether any of them can offer him a suitable appointment



## APPENDIX I

*Acts passed by both Chambers of the Indian Legislature during Simla  
(August—September) session, 1925*

- 1 The Provident Funds Act, 1925 (XIX of 1925)
- 2 The Code of Civil Procedure (Amendment) Act, 1925 (XX of 1925)
- 3 The Religious Endowments (Amendment) Act, 1925 (XXI of 1925)
- 4 The Salt Law (Amendment) Act, 1925 (XXII of 1925)
- 5 The Legislative Members Exemption Act, 1925 (XXIII of 1925)
- 6 The Sikh Gurdwaras (Supplementary) Act, 1925 (XXIV of 1925)
- 7 The Bamboo Paper Industry (Protection) Act, 1925 (XXV of 1925)
- 8 The Indian Carriage of Goods by Sea Act, 1925 (XXVI of 1925)
- 9 The Opium (Amendment) Act, 1925 (XXVII of 1925)
- 10 The Provident Funds (Amendment) Act, 1925 XXVIII of 1925)
- 11 The Indian Penal Code (Amendment) Act, 1925 (XXIX of 1925)
- 12 The Indian Limitation (Amendment) Act, 1925 (XXX of 1925)
- 13 The Coal Grading Board Act 1925 (XXXI of 1925)
- 14 The Oudh Courts (Supplementary) Act, 1925 (XXXII of 1925)
- 15 The Criminal Tribes (Amendment) Act, 1925 (XXXIII of 1925)
- 16 The Cotton Transport (Amendment) Act 1925 (XXXIV of 1925)
- 17 The Madras Bengal Bombay Children (supplementary) Act, 1925 (XXXV of 1925)
- 18 The Indian Ports (Amendment) Act, 1925 (XXXVI of 1925)
- 19 The Repealing and Amending Act 1925 (XXXVII of 1925)
- 20 The Transfer of Property (Amendment) Act, 1925 (XXXVIII of 1925)
- 21 The Indian Succession Act 1925 (XXXIX of 1925)



*State of official and non-official Bills pending before the Legislative Assembly—contd*

No	Bill	Originating Chamber	REMARKS
	(b) Non-official—contd		
2	Indian Registration (Amendment) Bill (Dewan Bahadur T. Panachariar)	Legislative Assembly	Introduced and referred to Select Committee
3	Hindu Coparceners Liability Bill (Sir Hari Singh Gour)	Ditto	Ditto
4	Weekly Payments Bill (Dewan Chaman Lal)	Ditto	Introduced and circulated for opinion
5	Hindu Trusts (Validation) Bill (Sir Hari Singh Gour)	Ditto	Introduced Motion for circulation rejected
6	Indian Medical Degrees (Amendment) Bill (Mr. Kumar Sanjar Ray)	Ditto	Introduced
7	Indian Coinage (Amendment) Bill (Sir Purshotamdas Thakurdas)	Ditto	Ditto
8	Indian Paper Currency (Amendment) Bill (Sir Purshotamdas Thakurdas)	Ditto	Ditto
9	Transfer of Property (Amendment) Bill (Sir Hari Singh Gour)	Ditto	Ditto
10	Law of Property (Amendment) Bill (Sir Hari Singh Gour)	Ditto	Ditto
11	Indian Arbitration Bill (Mr. Harchandrai Vishindas)	Ditto	Ditto



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